#911.

SUPREME COURT OF THE UNITED STATES.

DECEMBER TERM, 1851.—Nos. 98.

TRANSLATIONS

OF

FRENCH AND SPANISH PAPERS

IN THE RECORD IN THE CASE OF

GAINES vs. CHEW AND RELF.

Affidavits annexed to the petition of William Despau, praying for a dissolution of the injunction levied, agreeably to the petition of Madam Despau, upon the estate of her husband. Record, page 769.

11TH NOVEMBER, 1807.

This day, the eleventh of the month of November, of the year one thousand eight hundred and seven, and the thirty-second of American independence, before me, Cesar Alexis Bonamy, judge of the peace for the city of New Orleans, personally appeared the said William Despau, a resident of this city, who swore and affirmed, that on the sixth day of June last, Marie Sophie Carriere, his wife, left this city clandestinely, being the second time that she has thus done, and that without his consent she embarked on board the ship "the Fair American," for the purpose of going to the United States; that he gave notice of her departure in the Telegraph newspaper, No. 440, and in many others, accompanying it with the declaration that his intention was to institute proceedings for a divorce from the said Marie Sophie Carriere, his wife; reciting the laws causing her to render an account of the effects that she has disposed of without his consent, and sustaining that according to all of these laws she has lost all claim upon him, seeing that she has deserted him for seven years.

(Signed) G'ME DESPAU.

Sworn and affirmed before me. New Orleans, November 11, 1807.

Record, page 770.

At the same time appeared the said Francis Poupard, a resident of this city, who, having been sworn upon the holy evangelists to declare the truth, deposes and says: That it is to his knowledge that Marie

GIDEON, print.

Carriere, wife of William Despau, left this territory in the month of June last, and that she set sail for North America; that they are firmly convinced that Madam Despau left without the consent of her husband, since she has not lived with him for a long time; that it is equally well known that the said Madam Despau did not lead a very regular life, and that her husband had good cause to complain of her.

(Signed) F. POUPARD.

Sworn and affirmed before me. New Orleans, November 11, 1807.

A'IS BONAMY,
Judge of the peace.

Record, page 770.

Also appeared Messrs. Jean Jarreau, Jacques Mermet, residents of this city, who, having been sworn, do say and declare, that it is to their knowledge Madam Marie Sophie Carriere, wife of the said William Despau, has left this city and embarked for North America; and that they are firmly convinced that she has left without the consent of her husband.

(Signed) JEAN JARREAU.
(Signed) JACQUES MERMET.

Sworn and affirmed before me. New Orleans, November 11, 1807.

Offered by defendants. Filed 20th June, 1849. *Record, page* 846.

This sixteenth day of May, of the year one thousand eight hundred and eleven, and the thirty-fifth of American independence, personally appeared before me, Pierre Pedesclaux, a notary public for the United States of America, at New Orleans, Mr. Daniel Clark, a resident of this city, who has by these presents sold, conveyed, quitted, and transferred, with warranty against all difficulties, debts, hypothecations, and other hindrances whatsoever, which the annotator, however, only certifies as regards hypothecation, to Mr. Joseph Degoutin Bellechasse, residing in this city, here present, accepting for himself, his heirs and assigns, certain lands situated in the faubourg St. John, distant a half league from this city, or thereabouts, in square No. eleven, designated by the numbers one, two, three, four, five, six, seven, eight, nine, ten, fronting on Chene-vert and Bellechasse streets, and between Sixth and Seventh streets. Moreover, square No. twenty, bounded by Sixth and Seventh streets, Bellechasse and Chene-vert streets. Certain lots situated in the said faubourg, in square No. twenty-one, designated by Nos. one, two, three, four, five, seven, eight, nine, and ten, fronting on Bellechasse and Chene-vert streets, and between Fourth and Fifth streets. Further, the whole of square No. twenty-nine, bounded by Bellechasse and Chene-vert, Thirteenth and Fourteenth streets, and the property of Le Blanc. Finally, nine lots situated in the said faubourg, in square No. fourteen, designated by the Nos. three, four, five,

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six, seven, eight, nine, ten, and eleven, fronting on Washington and Lepage streets, and between Sixth and Seventh streets.

The whole conforming to a figurative plan made by Mr. B'y Lafon, and annexed to this act this ninth of June, one thousand eight hundred and nine; and which lots the said purchaser says that he is acquainted with and is satisfied.

The present sale, made and accepted by the parties upon the above conditions, and otherwise by the payment of the sum of six thousand dollars, which the said seller declares to have received from the said purchaser before the passing of these presents, and the receipt of which is here acknowledged; in consideration of which he yields and relinquishes all right and title to and in the said lots above sold in favor of the said purchaser; and he has seized and invested him with them, that he may enjoy, do, or dispose of them, as of any other thing belonging to him, now and forever, and to take possession of it at his pleasure.

This act, made and passed at our office in New Orleans, the day and year above mentioned, in presence of Joseph de Toca and Phil. Pedesclaux, witnesses, who have hereunto appended their names in common with the parties.

(Signed.) J. D. DEGOUTIN BELLECHASSE,
DANIEL CLARK,
PHIL. PEDESCLAUX,
JOSEPH DE TOCAX,
PIERRE PEDESCLAUX, *Not. Pub.*

A copy conforming to the original remains in my office for reference. In faith of which I have signed the present, and have affixed the seal of my office.

LOUIS T. CAIRE, *Not. Pub.*

New Orleans, 21 May, 1849.

No. 8.—*Offered by defendants. Filed June 20th,* 1849. *Record, page* 743.

Before me, Philip Pedesclaux, notary public for the city and parish of New Orleans, and in presence of the undersigned, personally appeared Mr. François Dussuau De la Croix, a resident of this city, who, by these presents, does sell, convey, and transfer, with warranty against all difficulties, debts and hypothecations, eviction, or other general hindrances whatsoever, to Miss Myra Clark, a minor, a resident of this city, purchasing for herself, her heirs and assigns, that which has been accepted by Samuel B. Davis, her curator ad bona, to wit, a lot of ground situated in the faubourg St. John, about half a league from this city, comprising two squares designated by the Nos. six and fifteen, bounded on the north by the lands of Messrs. Blanque & Fortier, on the west by Sixth street, on the south by Lepage street, and on the east by the lands of the widow Kernion; the whole conforming to a plan of the said faubourg deposited in our office. The said pro-

perty was purchased by the said seller from Mr. Samuel B. Davis by an act passed by the late Pierre Pedesclaux, then a notary in this city, dated the first of May, one thousand eight hundred and twelve.

This sale is made in consideration of the payment of the sum of two thousand dollars, which the seller acknowledges to have received from the purchaser, not in the presence of the notary or of the undersigned witnesses, for which he grants a release, discharge, and acquittance, excepting *non numerata pecunia* and other laws relating to this. The said sum having been remitted by the late Daniel Clark to the said Davis, who acknowledges the receipt thereof, to the end of acquiring the said lot of ground on account and in the name of the said Myra Clark.

In consideration of this payment, the seller places and institutes the purchaser in all the right to the said property he had or could have to the lot now sold, agreeing that the purchaser should be seized and invested with full power to enjoy, do, or dispose of it, as with any other thing appertaining to him, both for the present and the future.

Except the certificate of the conservateur bearing this date, there is no mortgage against Mr. Francis Dussuau Delacroix on the lot now sold. Made and passed in my office in the city of New Orleans, the sixteenth day of May, of the year one thousand eight hundred and thirty, in presence of the undersigned Michael Fourcisy and J. By. Pedesclaux, citizens of this city, and who have affixed their names to this act in common with the parties and the said notary.

(Signed) DUSSUAU DELACROIX,
SAM. B. DAVIS
J. BY. PEDESCLAUX,
FOURCISY,
PHI. PEDESCLAUX, *Not. Pub.*

A copy of the original is deposited in this office for reference. In faith of which I have signed my name and affixed my seal of office to the present act.

LOUIS T. CAIRE, *Not. Pub.*

New Orleans, May 21, 1849.

(No. 164.) Record, page 878.

Will of Simphorien Caillavet.

In the name of God, amen. I the undersigned, Simphorien Caillavet, a native of the parish of St. Profet, Bordeaux, legitimate son of Joseph Caillavet, counsellor in the court of Bordeaux, and Marie Fousal, his father and mother deceased, being in sound mind and body and of perfect judgment and memory, and anticipating death as natural to every creature, I wish to arrange my temporal affairs and make my will, and for the greater validity and surety I invoke as my advocate the sovereign queen of the angels, our lady Mary, (Marie Notre Dame,) to intercede for me with her dear son, our Lord Jesus Christ, that he

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may pardon my sins, and receive my soul among the blessed. Elected with this prayer and divine invocation, I ordain and the present my will and ordinance of my last wishes in the following manner:

I recommend my soul to the same God who gave it me, created and redeemed it with the price and infinite value of his precious blood, passion, and death, and I supplicate that by divine compassion he may condescend to pardon it. I ordain that my body may be placed in the earth from which it was formed, and when I shall die I wish to be buried in the simplest manner, and such a place as my testamentary executor hereafter mentioned shall judge the most suitable.

Item. I ordain that there be three masses said for the repose of my soul, and that two be given to each of the immaterial demands for carrying into effect this my wish.

Item. I declare myself to be married to Marie Rose Carriere, legitimate daughter of Mr. Carriere, a native of Libourne, and of Marie Gooferte, born at Bordeaux, deceased, by whom I have had a number of children, of which but three are living, to wit, Simphorien Caillavet, aged sixteen years, Beltran Latour Caillavet, aged fourteen years, Louis Arbaud Caillavet, aged twelve years, who I recognise to be my legitimate children, born of my marriage with the aforesaid, and whom I institute as my sole and only heirs, in equal portions; that after my death they inherit my effects, with the blessing of God and my own, for this is my wish.

Item. I name and institute as my testamentary executor Jacques Moulon, a citizen of this city, to whom I give ample power, as the law may require, that he may by himself, and without any intervening right, liquidate my succession, make an inventory, assessment, sale, and partition of my effects, appointing for the assessment two persons satisfactory to himself; and, the whole being concluded, that he may present it to a court of competent jurisdiction to be confirmed, thus relieving him of all responsibility. I revoke and annul, as being given for nothing, and of no value nor effect, every other codicil, will, power, or disposition to will, that I have heretofore made, either by writing or word, and to which I wish no further justice to be attached, except to this, which I ordain as valid, and as my last wishes.

Item. Knowing the incapacity of my wife to regulate my affairs, and fearing that she might compromit my children's interests by appointing her their tutrix, declaring, however, that she possesses all the virtues that characterize her sex, I therefore appoint as a tutor to my children Mr. François Joseph Le Breton Dorgenois, a citizen of this city, ancient alcade ordinary, relieving him from all responsibility.

Item. My property in Europe consists of a country seat in the parish of Gradignard, as valuable as other cultivated lands, and detached heaths; moreover, a house in Bouquiere street, opposite Veuve street, bounding in the last the cemetry of the parish of St. Colombe; another house outside the porte St. Julien, on Guerard street, by the side of the river Ancien Chanon.

Item. I possess in this colony a house on Bourbon street, a negresse,

as house servant, called Julie, and a thousand dollars, which I have deposited in my chest.

Item. If my house, which it is my present intention to dispose of, should not be sold at the time of my decease, I desire and ordain that it remain as a dwelling for my wife, with the negresse Julie, which she cannot dispose of by sale or otherwise, having a mere usufructuary right, and which must determine to our children after our deaths.

Item. I authorize my wife to dispose of the negresse Julie, whom I value at the sum of eight hundred dollars, in order to repay to her parents' estate the sum of six hundred and thirty dollars, and another sum of one hundred and twenty-nine dollars, lately remitted by Mr. Desgrange, and accruing from a part of the succession of his parents in France.

Item. I desire that my children may be sent to France, and placed, by my testamentary executor, under the care of my brothers and sister above mentioned, and that their passage be paid out of the money in my chest.

Item. I declare that I am not indebted to any one either in this or another country.

Item. I confirm as my curator ad litem any one that my executor shall deem appropriate.

Item. If, after my decease, my wife should desire to go to France with her children, I order my executor to sell the house and the negresse Julie, as well as every thing that cannot be transported, my wife reserving such things as may be necessary for her voyage; the money that may accrue from the sale of the things mentioned, with the exception of enough to pay her passage, and two hundred dollars to meet the contingencies of the passage, to be converted into the commodities of this country, and consigned to my brothers.

Given at New Orleans this nineteenth day of July, one thousand eight hundred and two.

(Signed) SIMPHORIEN CAILLAVET.

Printed Record, pages 740, 741.

Know all who shall see this paper, that I, Don Geronimo Desgrangen, a resident of the city, acknowledge that I give my full ample power, and as sufficient as may by law be required, to Donna Maria Zulima Carriere, my legitimate wife, general, in order that in my name and representing my own person, rights, and interests, she may demand, receive, and recover all and whatsoever sums of money, gold, jewels, slaves, merchandise, fruits of the earth, and other effects which at present may be due me, and in future may become due me, by writings, avails, accounts, settlements, acknowledgments, donations, inheritances, clauses of will, or any other title whatsoever it may be, although neither the amounts nor the persons by whom they are due be not specified, (and which hereafter may become due by writings, avails, accounts, settlements, acknowledgments, donations, inheritances,) I

say, to ask for the same and take accounts, to make claim and admit just discharges, to name third parties in case of disagreement, she may adjust, liquidate, resolve and determine the doubts and difficulties which may arise, grant delays, if such be desirable; and for the amounts which she may receive, and others which she may recover, to grant receipts, and evidences of payment, definitive acquittances, and receipts, with acknowledgement of payment, or renunciation of the laws in such case to enable her to administer and manage all and every of my property, both landed and moveable; to lease, sell, and hypocate them, and to purchase others at the prices and at such periods as I shall adjust and consent to, granting for this purpose the proper writings, which I from this time forth approve and ratify as if I were present at the time of their being granted; and for all my lawsuits, causes, and affairs, civil, criminal, ordinary, and executive, commenced and to be commenced, which I at present have, and in future may have, with any person whatsoever, making demands and defence in each and all of them, presenting petitions, writings, witnesses, proofs, and all the other evidences and papers which may be thought proper, obtaining the same from wheresoever they are to be found, to hear decisions and interlocutory sentences and definitive ones, to assent to those which are favorable, and to appeal and petition against those which are unfavorable, to pursue the appeals and petitions in all courts and tribunals; and finally to commence, continue, and pursue whatsoever judicial and extrajudicial proceedings may present themselves without any exception; that the power which may be required for every thing incident and dependent thereon, I give and grant to her without limitation, with free, frank, and general administration, power to prepare cases for suit, to make oath, to substitute, to revoke substitutes, and appoint others with remission in due form. To the fulfilment of all which I bind my estate, in hand and to be in hand. I empower his majesty's judges to compel me to its fulfilment with all the rigor of the law, as a sentence consented to and passed by authority, as a matter judged, upon which I renounce the laws in my favor with the general prohibitory law.

In testimony whereof this paper is dated in the city of New Orleans, on the 26th March, 1801. I, the notary, attest that I know the party grantor who signed it, Don Santiago Felipe Guinault, Dr. Simon Favre, and Don Antonio Fromentin, residents hereof, being witnesses present.

(Original signed) J. DES GRANGE.

Before me, NARC'O BRONTIN,
Notary public.

I certify the foregoing to be a true copy, &c., &c.

Printed record, pages 741, 742.

Know all who shall see this paper, that we, Donna Felicite Carriere, the legitimate wife of Don Sinforiano Caillavet, duly authorized

by my said husband to grant the present, Donna Maria Carriere, the legitimate wife of Don Bertran Lasabe, who is absent, and Donna Maria Sofia Carriere, the legitimate wife of Don Guillermo Despaux, also absent; and we being authorized by Sieur Don Nicholas Forstall, alcalde of the first election, to grant the present writing, say, that by the present we give our full ample power, as sufficient as may by law be required, to serve and avail to Don Geronimo Desgrange, a resident of this city, our brother-in-law, general, in order that in our name, and representing our own person, rights and interests, he may receive and recover all the amounts and effects which may belong to us as the legitimate coheiresses of the property of our deceased father and mother, Don Juan Carriere, a native of Libourne, and Donna Maria Chauffert, a native of Bordeaux, in order that, whenever necessary, he may do and practise whatsoever judicial and extra-judicial proceedings which may present themselves, without any exception. He may reclaim and ask for accounts from all persons who may hold said property; and for what he may receive and recover, he may grant receipts and evidences of payment, definitive acquittances and receipts, with acknowledgments of payment, or renunciation of the laws in such case; he may hear proceedings and sentences, interlocutory and definitive; assent to the favorable, and appeal and petition from the unfavorable, and pursue the appeals and petitions in all courts and tribunals; that the power which, for the whole incident to and dependent thereon, may be required, we give and grant to him, with free, frank, and general administration, power to prepare cases for suit, to make oath, to substitute, to revoke substitutes and appoint others, with remission in due form. To the fulfilment thereof we bind our estates, in hand and to be in hand; we empower his majesty's judges to compel us to its fulfilment with all the rigor of the law, as a sentence consented to and passed in authority, as a thing judged, upon which I renounce the laws in my favor, with the general prohibitory law, formally.

In testimony whereof this paper is dated, in the city of New Orleans, on the 26th of March, 1801. I, the notary, attest that I know the parties grantors who signed it, Don Antonio Boudousquie, Don Simon Favre, and Don Antonio Fromentin, residents hereof, being witnesses present.

Original signed: Marie Carriere, Sophie Carriere, Felicité Carriere, Simph'e Caillavet. Before me,

NAR'CO BRONTIN, *Notary public.*

I certify the above and, &c., &c.

Printed record, page 748 *to* 751.

Information in regard to a spinster, produced by Geronimo des Grange, in order to contract matrimony with Maria Julia Carriere.

Decree, examined: Let a license be granted to Geronimo Desgrange, a native of Clermont, in the parish of St. Gene, in the kingdoms of France, son in legitimate wedlock of Jean Baptiste Desgrange and

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Maria Fran'ca Roux, both deceased, and natives of the same place, in order that he may contract matrimony with Maria Julia Carriere, a native of this city, daughter in legitimate wedlock of John Carriere and Maria Chofer; the former a native of the city of Libourne, and the latter of Bordeaux, in said kingdoms of France, both deceased. In order that he may appear in the ecclesiastical court, a copy of this decree will be furnished to him, the precautionary proceedings remaining on file in the archives.

LICENCIATE MANUEL SERRANO.

The licenciate, Don Manuel Serrano, assessor of this intendency, and ordinary alcalde de primer voto of this city, so ordered, which he signed, in the city of New Orleans, on the 13th of November, 1794.

FRANCISCO BRONTIN,
Notary public.

Notification. In the same day I notified Geronimo Desgrange. I certify. BRONTIN, *Notary.*

This agrees with the original, to which I make reference, and which remains in my possession and archives; and in virtue of the order in the decree inserted, I give the present, in the city of New Orleans, on the 13th of November, 1794.

FRAN'CO † BRONTIN, *Notary public.*

I, Geronimo Des Granges, a native of the parish of St. Gines, of the city of Clermont, kingdom of France, in the most proper and legal form, before you appear and say, that in order the better to serve God, our Lord, I have determined to contract matrimony, in the presence of the church, with Maria Julia Carriere, a native of this parish; in consequence whereof, you will be pleased to order that information be received from me, and that the witnesses whom I shall produce may religiously declare the fact that they know me, and that they know that I am a native of the said parish, the legitimate son of Jean Baptiste des Granges and Maria Fran'ca Roux; an apostolical Roman Catholic; that they have seen me perform christian acts, hearing mass and frequenting the holy sacraments; that I have not promised marriage to any other person other than the one aforesaid, with whom I have no affinity, nor impediment to contract matrimony. Which information being held to be sufficient, you will be pleased to order that the curate of this parish may join us in wedlock, and *and* bless us therein. Therefore, I pray you to be pleased to order as I request.

I duly present the license of the Señor vice, in order that it may produce the proper effect.

JEROME DES GRANGE.

In the first place, let the information which this party offers be re-

ceived, let the witnesses appear, after a scrutiny of its contents, and let the document referred to be presented, and

WALSH.

Señor Don Patrick Walsh, presbyter, clergyman, Vicar Foranes, ecclesiastical judge of this province, and sub-delegate of , thus ordered, which he signed on the 14th November, 1794.

ESTEVAN DE QUINONES,
Public notary.

Notification.

And in New Orleans, on the said day, I made known the foregoing decree to Geronimo Des Granges.

I attest:

QUINONES, *Notary.*

Deposition.

In the city of New Orleans, on the same day, month, and year, before the Vicar Foranes, ecclesiastical judge, appeared Geronimo Des Granges, who, before me, the present notary, took the oath that he did, by God and the cross, according to law, under the obligation of which he promised to tell the truth, and expressed his willingness to do so with the greatest prolixity; and being examined as to the contents of the foregoing petition, he said: That he is a bachelor; that he has not given a promise of marriage to any other person than Maria Julia Carriere; that he had made no vow of chastity, nor to enter into a religious calling; and that he has not been induced, forced, nor compelled to this resolution by any person, and that he has done it of his own free and spontaneous will, such being the truth under the obligation of his oath; that he is thirty-four years of age; and signed, and the said vicar made his rubric, which I attest.

JEROME DES GRANGE.

Before me.

ESTEVAN DE QUINONES,
Notary public.

Another. Immediately afterwards, on account of the knowledge he has of the said Des Granges, appeared as a witness before the said Vicar Foranes, Don Gabriel Mariano Dubre, who, before me, the notary, took the oath which he did, by God and the cross, under the obligation of which he promised to tell the truth, and being examined as to the tenor of the foregoing petition, he said: That he knows the petitioner, and he also knows that he is a native of the parish of St. Gines, of the city of Clermont, kingdom of France, the legitimate son of Jean Baptiste Des Granges and Maria Fran'ca Roux; an apostolic

Roman Catholic; that he has seen him perform christian acts, hearing mass, and frequenting the holy sacraments; that he does not know that he has given a promise of marriage to any other person than the aforesaid Maria Julia Carriere, with whom he has no affinity nor impediment in contracting a marriage; that what he has stated is the truth under the obligation of his oath; that he is forty-two years of age; he signed the same, and the said vicar made his rubric, which I attest.

GABRIEL DUBAC.

Before me.

ESTEVAN DE QUINONES,
Notary public.

Another. Immediately afterwards, appeared as a witness before the said Vicar Foranes, the ecclesiastical judge of this province, Don Antonio Benguerelle, who, before me, the notary, took the oath which he did, by God and the cross, according to law, under the obligation of which he promised to tell the truth, and being examined as to the tenor of the said petition, he said: That he knows the petitioner, and he also knows that he is a native of the parish of St. Gines, of the city of Clermont, kingdom of France, the legitimate son of Jean Baptiste Des Granges and Maria Francisca Roux; an apostolic Roman Catholic; that he has seen him perform charistian acts, hearing mass, and frequenting the holy sacraments; that he does not know that he has given a promise of marriage to any other person than the aforesaid Maria Julia Carriere, with whom he has no affinity nor impediment in contracting a marriage, and he answers that this is the truth under the obligation of his oath; that he is forty-four years of age, and signed the same, and the vicar made his rubric, which I attest.

A. BENGUEREL.

Before me.

ESTEVAN DE QUINONES,
Notary public.

NEW ORLEANS, *Nov.* 14, 1794.

Having seen the foregoing information produced by Geronimo des Granges, in order to contract matrimony with Maria Julia Carriere, his worship said that he must approve it, and does approve it and hold it for sufficient; and for its greater value and power he interposed his authority therein, and his judicial decree, according to law, and ordered that the Reverend Father Fr. Joachin de Portillo, the curate of this parish of San Luis, should unite them in wedlock, and bless them therein according to custom, after the publication of the banns, and all the other requisites and formalities which are required in said parish, inasmuch as the aforesaid person has appeared in this his tribunal,

and there being no impediment; for which end he issues the proper order.

WALSH.

Before me.

ESTEVAN DE QUINONES,
Notary public.

Notification.

And on the same day, I made known the foregoing decree to Geronimo Des Granges.

I attest:

QUINONES, *Notary.*

The order decreed was delivered to the Rev. Father Fr. Joachin de Portillo, the curate of this parish of San Luis.

I attest:

QUINONES, *Notary.*

Fees to the vicar, thirty-two reals; received.

I, Geronimo Des Granges, in the information of a liberty which I have produced in the best manner, according to law, expose to your worship, that being aware of the near approach of advent, which will begin on the thirteenth instant, and also that marriages cannot be celebrated until after that period; with this consideration, and also that my business in my trade of distilling liquors requires a person in whom I may have confidence, to whom ; and having none other than my future wife, I beg your worship to be pleased to dispense with the publication of one bann, and on the publication of two to permit the marriage to take place.

I beg your worship to be pleased to order as I request; I swear the necessary, &c.

JEROME DES GRANGES.

NEW ORLEANS, *Nov.* 14, 1794.

Inasmuch as the reasons mentioned by this party, in order to obtain a dispensation of one publication, are considered sufficient, his worship said, that making use of this benignity he dispensed and issues his dispensation; and when the two banns are published, let the marriage be solemnized as he has ordered in the former decree.

WALSH.

Before me.

ESTEVAN DE QUINONES,
Notary public.

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Notification.

In New Orleans, on the said day, I made known the foregoing decree to Don Geronimo Des Granges.

I attest:

QUINONES, *Not. pub.*

Notification.

On the said day, I made known the same to the Rev. Father Joaquin de Portillo, curate of this parish, which I attest.

QUINONES, *Notary,*

Printed record, page 759.

Certificate of marriage, filed July 24*th*, 1806.

I, Fr. Antonio de Sedella, a Capuchin clergyman, curate of this parish church of San Luis, of New Orleans, certify in due form, as I can and ought, that in one of the record books of marriages, which is the seventh, on page ninety-nine, there is an entry numbered four hundred and thirty-four, of the following tenor:

{ Entry } { 434. } On Tuesday, the second of December, one thousand seven hundred and ninety-four, I, the undersigned, apostolical Capuchin missionary, and curate of the parish of San Luis, in this city of New Orleans, the necessary preliminaries being first completed, and the banns being twice published, (the third being dispensed with by the vicar,) which were read at the parroquial mass of the Sundays, on the sixteenth and twenty-third of November; whence no impediment arose; being prepared by confession and communion, and being questioned as to their mutual consent, which they affirmed with express words in my presence, and in presence of witnesses, joined legitimately in matrimony Geronimo Desgrange and Maria Julia Carriere; the former a native of the city of Clermont, in France, the legitimate son of Jean Baptiste Desgrange and Maria Francisca Roux, both natives of Clermont, and the latter a native of this parish, the legitimate daughter of Juan Carriere, a native of Ligourne, in Gascony, and Maria Choffir, a native of Bordeaux; Guillermo Maroe, Antonio Boudusquié, and Sinphoriano Caillavet were witnesses. Not being able then to receive the reports, I notified them to present themselves after the essefania [?] to receive the blessing and nuptial benediction; and in testimony thereof I sign the present on the day, month, and year above mentioned.

FR. JOAQUIN PORTILLO.

This agrees with the original entry, which appears in the aforesaid books of the said church, to which I make reference; and at the request of the party, I make the present in New Orleans, on the twenty-fourth of July, one thousand eight hundred and six.

(Signed) FR. ANTONIO DE SEDELLA.

Printed record, page 859.

[No. 114.]

Offered by defendants, and filed 3d July, 1849.
J. W. GURLEY, *Com'r.*

Be it known that I, Donna Maria Carriere, the legitimate wife and general attorney of Don Geronimo Desgrange, acknowledge that I sell bonâ fide to Don Gil Legoaster, resident hereof, a creole negress named Aleice, a creole, aged about thirty years, who belongs to my principal, he having purchased her from Don José Zamora, by a bill of sale filed in these archives, dated the 5th of August, 1793, as a slave, liable to serve, with all her imperfections, vices, and infirmities, with the exception of those de ordinanza [?] in such wise, that all those which may be discovered I consider as herein inserted and made known, unincumbered, as is certified by the present notary, for the price of five hundred dollars, which I have received in cash to my satisfaction; I renounce the exception of the money unexpressed, and grant a formal receipt; in consideration whereof I enfeoff my proprietorship, possession, use, dominion, ownership, and whatsoever other legal and personal rights I had or held in said slave, whom I cede and transfer to the purchaser, and in whom is fixed the right to possess her as his own, or to dispose of her at his pleasure, by this bill of sale, which I grant to him as evidence of the real delivery, whereby he is proven to have acquired possession, without further proof of transfer; and I hereby bind my principal for the security and guaranty of this sale in all legal form; and I, the aforesaid Don Gil Legoaster, being present, accept this bill of sale, and receive the purchased slave, for the sum, and according to the terms of sale, I consider her as delivered to me, and I grant a formal receipt; and I declare that I will not avail myself of the right of annulling this sale on account of imperfections or infirmity, nor for other minor considerations, since I renounce them. In testimony whereof this is dated in this city of New Orleans, on the 3d of November, 1801.

I, the notary, attest that I know the contracting parties who signed; Don Celestino Lavergne, Don Fernando Percy, and Don Jacinto de Ayala, residents hereof, being witnesses present.

(Signed) G. LE GOASTER.
MARIE CARRIERE DESGRANGES.

Before me—

PEDRO PEDESCLAUX,
Notary public.

This agrees with the original act, which remains on file in the archives under my control, to which I refer.

[L. S.] In testimony whereof, I sign the present, at New Orleans, on the 29th June, 1849.

LOUIS T. CAIRE,
Not. pub.

Printed record, page 864–'5–'6.

[No. 113.]

Offered by defendants, and filed 3d July, 1849.

J. W. GURLEY, *Commissioner.*

Be it known that I, Donna Maria Carriere, the legitimate wife and general attorney of Don Geronimo Des Grange, residing in this city, acknowledge that I sell bona fide to Don Pasqual Payllet, merchant of this city, one negro named Pedro, [Peter] aged about fifty-eight years, belonging to my husband, he having purchased him from Don Louis Forneret by a bill, a sale in these archives, before Don Franc'o Brontin, dated the third of August, one thousand seven hundred and ninety-six, as a slave, liable to serve, healthy and uninjured, unincumbered, as is certified by the present notary, for the price of three hundred dollars, which I have received in cash to my satisfaction; I renounce the exception of the unexpressed moneys, and grant a formal receipt; in consideration whereof I enfeoff my proprietorship, possession, use, dominion, ownership, and whatsoever other legal and personal rights I had or may have in said slave, whom I cede and transfer to the purchaser, and in whom is fixed the right to possess him as his own, or to dispose of him at his pleasure, by this bill of sale, which I grant to him as evidence of the real delivery, by which he is proven to have acquired possession without further proof of transfer; and I bind myself for the security and guaranty of this sale in all legal form; and I, the said Don Pasqual Payllet, being present, accept this bill of sale and receive the purchased slave, for the sum and according to the terms of sale; whereupon the delivery was made, and I grant a formal receipt.

In testimony whereof this is dated in this city of New Orleans, on the sixth of November, one thousand eight hundred and one. I, the notary, attest that I know the stipulating parties who signed.

(Signed) MARIE CARRIERE DES GRANGE.
P. PAILLET.

Don Celestino Lavergne, Don Fernando Percy, and Don Jacinto de Ayala, residents, present, being witnesses. Before me.

PEDRO PEDESCLAUX,
Notary Public.

This agrees with the original act, which remains in the archives under my control, to which I refer. In faith whereof I sign the present at New Orleans, on the 29th of June, 1849.

[L. S.] LOUIS T. CAIRE,
Notary Public.

[No. 115.]

Offered by defendants, and filed 3d July, 1849.

Be it known that I, Donna Maria Zulima Carriere, the legitimate

wife and general attorney of Don Geronimo Des Grange, as appears by the power of attorney which he granted before Don Narcisso Brontin, on the 26th of March of the present year, acknowledge that I sell bonâ fide to Donna Josefa Moreno, also resident hereof, a negress named Maria Marta, aged about thirty-three years, who belongs to me, my principal having purchased her from Don Jose Navarro, by a bill of sale in these archives, on the 29th of April of last year, a slave, liable to serve

free from incumbrance, as is certified by the present notary, at the price of six hundred hard dollars of Mexican coinage, of which I have received four hundred on account to my satisfaction, and of the real and effective delivery of which money I, the notary, certify the fact, it having been done in my presence and that of the assisting witnesses; and the remaining two hundred dollars of said money is to be satisfied and paid to me in the term of three months from this date; in consideration whereof I enfeoff my proprietorship, possession, use, dominion, ownership, and whatsoever other legal and personal rights I had and held in said slave, whom I cede and transfer to the purchaser, and in whom is fixed the right to possess her as her own, or to dispose of her at her pleasure, by this bill of sale, which I grant to her as evidence of the real delivery, by which she is proven to have acquired the possession, without other proof of transfer; and I bind myself for the security and guaranty of this sale in all legal form. And I, the said Donna Josefa Moreno, being there present, accept this bill of sale and receive the purchased slave for the sum and according to the terms of sale; whereupon the delivery was made, and I grant a formal receipt. And I obligate myself to satisfy, within the time fixed, the two hundred hard dollars of Mexican coinage for which I am duly responsible, and without any law suit; and for better security, although the general obligation does not do away with the special one, nor on the contiary did it specially and signally pledge the said slave which has just been sold to me, whom I promise not to sell, nor in any manner to dispose of, until the real and effective payment.

In testimony whereof this is dated in this city of New Orleans, on the 29th of October, one thousand eight hundred and one. I, the notary, certify, that I am acquainted with the stipulating parties; the party selling signed, and one of the witnesses signed for the party purchasing, who requested it, saying she knew not how. The witnesses were Don Celestino Lavergne, Don Fernando Percy, and Don Jacinto de Ayala, residents, present.

(Signed) MARIE CARRIERE DES GRANGE.
JAACINTO DE AVALA.

Before me. PEDRO REDESCLAUX,
Notary Public.

This agrees with the act, which remains in the archives in my pos-

session, to which I make reference. In testimony whereof I sign the present in New Orleans, on the 29th of June, 1849.

[L. S.] LOUIS T. CAIRE,
Notary Public.

[No. 16.]

Offered by defendants, and filed 3d July, 1849.
J. W. GURLEY, *Commissioner.*

In the city of New Orleans, on the thirteenth of January, one thousand eight hundred and two, before me, the notary, and witnesses, appeared Don Sinforiano Caillavet, substituted attorney of Don Guillermo Des Grange, whom I certify that I know, and said that he has received from Donna Josefa Moreno two hundred dollars, which she owed to his principal, by a paper writing in these archives, dated the 29th of October of last year, which has been paid to him to his satisfaction, and the real and effective delivery of which money I, the notary, certify, it having been done in my presence and in that of the assisting witnesses; in consequence whereof he gives up, as null and cancelled, the obligation and pledge, and consents that the same be noted. He thus granted and signed; Don Celestino Lavergne and Don Fernando Percy being witnesses.

(Signed) SIMPHO. CAILLAVET,

Before me. PEDRO PEDESCLAUX,
Notary Public.

This agrees with the original act, which remains in the archives in my possession, to which I refer. In testimony whereof I sign the present in New Orleans, on the 29th of June, 1849.

[L. S.] LEWIS T. CAIRE,
Notary Public.

Printed record, page 1113.

In the city of New Orleans, on the ninth of November, in the year one thousand eight hundred and one, before me, the notary, and witnesses, appeared Donna Maria Zulime Carriere, the legitimate wife of Don Guillermo [William] Desgrange, whom I certify that I know, and said, that on the date of the twenty-sixth of March last of this current year, by a paper writing filed in these archives, her aforesaid husband conferred upon her his general power of attorney, which she admits has not been revoked, and, making use of one of its clauses, she hereby acknowledges that she substitutes and surrogates the same to Don Sinforiano Caillavet especially, in order that he may recover from Donna Josefa Morena the sum of two hundred dollars which she owes on settlement for the negress Maria Marta, from a certain Lacosta, residing in

Pensacola, one hundred and seventeen dollars four reals for his certified account; from Don Leonardo Mazange ten dollars, and from Madame Lartigue eighty-seven dollars, granting definitive receipts, authorities, and acquittances, with proof of the payment or renunciation of the laws relating to this case, and pursuing all judicial and extra-judicial proceedings which may arise, without any exception. To the fulfilment whereof she binds her estate in hand, and to be in hand; she empowers his majesty's judges to compel her to its fulfilment, with all the rigor of the law, as though it were a sentence consented to and passed by authority as a matter adjudicated, in regard to which she formally renounces the laws in her favor, with the general prohibitory law.

In testimony whereof she thus granted and signed; Don Antonio Boudousquie, Don Alex. Lesassier, and Antonio Fromentin being witnesses present.

(Signed) MARIE CARRIERE DESGRANGE.

Before me:

NARCO. BRONTIN,
Notary Public.

LETTERS OFFERED BY COMPLAINANT, JUNE 26, 1849.

A.—*Record, page* 498.

In recommending to you my young cousin and her excellent uncle, I would merely say, that they are so highly refined and excellent that you will regret greatly at having to part with them so soon. They will remain in Bordeaux but a short time, being called there for a young Creole who has just finished his education, and recommended to M. le Chevalier de Vassagne, who will place him at . . . . . and who has educated three of this young man's brothers. If they should remain no longer than I suppose they will, you will favor me by introducing them to General de Clouet and family; also to our friend, Madame de la Roche. You will express to her my deep regrets at the death of Madame de Bouligny. Receive for yourself the sincere expression of my affectionate attachment. My husband and children are well.

SOLIDELLE DE ROFFIGNAC.

B.—*Record, page* 498.

ANGOULEME, *Oct.* 19, 1834.

MY DEAR ZULIME: During the past month I have been a great sufferer from an attack of neuralgia in my head; at least it is feared to be such. I have so long grieved for the loss of my family and husband that I anticipate being prostrated myself by sickness.

The excellent Madam Castex will acquaint you with the reason of my trip to Paris. On my route there I was seized with an attack of catarrh in the head from having taken a cold bath; but we must have patience. Let us speak of our friend Madam Castex. She will explain to

4920.

you the object of my trip to Bordeaux. I hope you will aid her by all in your power, and that you will introduce her to our excellent Creole friends—to Gitièir, who has numerous friends. In fine, I am convinced that you will afford her every necessary assistance.

My headache is excruciating. I have only time to embrace you.

SOLIDELLE DE ROFFIGNAC.

C.—*Record, page* 499.

ANGOULEME, *July* 20.

It is with pleasure, dear Zulime, that I urge upon you to make the acquaintance of the Faild family, who are about to settle in Bordeaux. They are all three of a class of society unquestionable and agreeable. Such friends are rarely found, and their departure will give rise to permanent regrets amongst us. I pray you, then, exert yourself to extend their acquaintanceship. They are already well known here, and I would only say that you are making a great acquisition at our expense.

It is very true, my dear friend, that I am now expecting the return of my daughters. As for myself, I shall never be happy until I am settled at Paris or Bordeaux, which I love so much, and where I should find so many of my compatriots, the society of whom would indemnify me for my absence from my country.

Inform me whether you have seen the Chevalier de Vassagne and his mother. If you have received the letter in which I speak of my box, send by the ship La Jeune France.

Send me whatever news you may have. There is a report abroad that the cholera has been spreading amongst us, but such is not the case. M'lle Poultney has however been a victim of it. Bankruptcy has crept in upon us. Our poor country has experienced a great change and that to its disadvantage.

Do not forget me, and send me often such news as you may have.

Mr. Fayd is our ladies' physician. I do not know whether he will prolong his residence at Bordeaux; here he only practises among his friends, who will greatly regret his absence.

Albin Michel has arrived in Paris, also many Creoles.

Embrace for me your good sister; kind regards to your sons, from your friend

S. DE ROFFIGNAC.

D.—*Record, page* 499.

ANGOULEME, *Jan.* 14, 1835.

Well, my dear Zulime, have you as yet settled in that foreign land, where from so far my best wishes accompany you?

A gentleman named Castex, who is about departing for the new world is very desirous of going out in the same ship with your family. We know but little of him, but he is well spoken of here, and that is a great deal. He will make one more passenger, and that you will not regret having.

My husband has given him a number of letters. A pleasant voyage, dear friend. Acknowledge this immediately; it is the third without any reply.

S. DE ROFFIGNAC.

E.—*Record, page* 500.

CAUTERETS, *July* 1, 1833.

MADAM AND EXCELLENT FRIEND: I have received your letter of June 24th. I am truly sensible of the interest you take in all that appertains to me. I sympathize with you, my dear friend, in all your troubles. I sincerely desire that you may receive from the Bishop of Baltimore some satisfactory news of your dear son. The idea of addressing the Bishop was excellent. Let us hope that he will reply very soon; and that it may be of the most satisfactory nature, is the wish of your sincere friend.

I have received a letter from my son Henry, who confirms the death of my dear brother. He has sunk under his first sickness, an attack of apoplexy. Henry has acquainted me with his marriage. You know what I think of it; but the thing is done. We must resign ourselves to it, and come to some conclusion. Rich marriages are not always the most happy; the example of my dear Justine is a proof of this.

M. St. Avide, who is in Paris, has written to M. Blanc that M. Garnier had arrived at Havre with his wife and all his children, and that he had written to him from Havre to secure him apartments in Paris. I have not yet received a letter from my dear daughter. I anxiously await the happy moment when I can press her to my heart, as also all my dear children.

Should the ladies Declouet have departed four days after my letter, they will arrive here to-day. I shall anticipate their arrival with much impatience; it will afford me much pleasure.

My husband continues to enjoy the baths that he takes and the water which he drinks at the Raillere. I am also much better. I have taken 9 baths, and two glasses of mineral water every day, of which I have great need, since the cold that I have just had has greatly enfeebled me.

I cannot tell you precisely how long we shall remain here. If M. Laroche continues to improve by the use of the waters, I will promise to remain here the whole season. I have had the pleasure of seeing Mr. Cazenave, my son-in-law, who spent two days with us. Adele is very well, as also little Edward.

My husband desires that you will be pleased to receive his respects, which he also presents to Madam Caillavet. Adieu, my dear and excellent friends; I embrace you both, and think often of you, also of Edmond, to whom I render my regards. If I should receive any news from Madam Rouffignac, I will communicate it to you.

My letter not having been placed in the post this morning, I would add, that I have just received a letter from Garnier, of the 23d ult.

They have had a most happy voyage, which they accomplished in thirty-eight days. They will remain a month in Paris, in order that Ocilia and Agalaé may see all the objects of attraction; they will then go to pass some days with M. Pontalba at Mont L'Evêque, a most charming country site, where they will rest from the fatigues of the voyage.

The Declouets arrived this afternoon at 4 o'clock, very much fatigued. I have just received your letter.

My husband presents his respects to Mr. Edmond.

The courier will not set out until 10 o'clock.

L. née BOULIGNY.

F.—*Record, page* 501.

CAUTERETS, *June* 16, 1833.

MADAM AND EXCELLENT FRIEND: We arrived here on the 3d; fourteen days have run by without my being able to give you any news. I have no doubt but that you still continue to feel an interest in our welfare. I regret at not having been able to write to you oftener; a sore throat, followed by a cold contracted by the excessive heat that we have experienced on the route, has been the cause of it. I find myself much better to-day, but have not yet been able to take the baths. I anticipate that my cold will be eradicated by taking those at the Raillere.

My husband sustained the journey much better than I expected he would. He was taken with a fever on the route, but remained quiet at Bordeaux. He has already taken six baths, from which he finds himself better. His strength is returning; he has a good appetite, sleeps well, and will, I trust, leave behind all his complaints.

And how are you, my good friends? Give me all the news concerning yourself. Madam Caillavet was indisposed when I left. I had intended calling upon you the evening before my departure, but Madam Rival and Madam Latapie having come to spend the evening with me, it was too late to do so when they retired.

Have you heard yet from your son? Let me hear from you on this point. Has Madame Duchaufour written to you yet? You will infinitely oblige me by letting me know this, and also whether the young M'lle Gabriel has arrived in New Orleans.

Inform me, I pray you, of Madame Bartte and M'lle Victorine. Why does she not conclude to come here and use the Cauterets' waters; she would find herself cured here. Remember me to Madame Declouet and her family.

My regards to Edmond. Adieu, my good friends. Reciprocate the great love I bear you, and communicate to me every thing concerning yourselves. I send you my address: "Hôtel du Lion d'or, chez le traiteur Cazenave, à Cauterets."

Do you know whether Madame Roufignac is in Paris; has she written

to you? If she is there, you know, my dear friend, that I count upon you for her address. L. née BOULIGNY.

G.—*Record, page* 502.

BAGNERRES, *August* 4, 1833.

MY DEAR AND GOOD FRIEND: I received your dear letter in due time. My excuse for not having replied instantly is a want of time. Our mornings are passed here in taking the baths, or in awaiting the dinner hour. We are compelled to take some exercise to create a reaction; also we have to receive the visitors who call upon us. I greatly desire to take advantage of the ships that are about to sail for New Orleans. If I have not had the time to write, I have not failed to think of you my dear friend; and I learned from M. Déclouét the sad news that you have received from your family. Believe me, my dear friends, that I share largely in your troubles and distress; but we must submit and resign ourselves to the decrees of Providence. I hope that you are rapidly convalescing. Write to me fully in regard to yourself, as also of your dear sister and Edmund.

I left the Declouets looking very well. The waters have done Madame Barthe and Victorine much good. Laura has occasionally a fever.

We arrived here the first of August. During the fifteen days after our arrival at Cauterets the water appeared to do my husband much good; his strength perceptibly returned; but afterwards the baths, and above all the douche greatly fatigued him, and finally he took a cold from which he has not yet recovered. I have not yet received any letters from Madame Garnier, which gives me much uneasiness. I fear that she or her children may be sick, for the atmosphere of Paris is so impure. I have received a letter from Madame Brueys, who prays to be remembered to you.

I am about to ask you to do me the favor of sending this letter to my son. I prefer that it should not go by the Bolochant mail; I have already sent three letters by that opportunity, two to mamma and another to Madame Brueys, all of which were placed in the hands of M. Cazenave to give to the captain. If the Zelia has not yet sailed, you can send it by that ship, or the first that shall depart for our country. You will oblige, my dear friend, she who thinks often of you, as also the good Madame Caillavet.

I propose writing to Madame Garnier and giving her your address. If she goes to Bordeaux I am desirous that she shall make your charming acquaintance.

Adieu, my dear friends; I embrace you with all my heart.

L. née BOULIGNY.

I have just learned with great pleasure of the arrival of your dear son at Bordeaux. I congratulate you with all my heart, and partake of all your happiness. I pray you to say to your son the most agreeable things on our account.

M. La Roche presents his respects.

H.—*Record, page* 503.

BORDEAUX, *March* 3, 1833.

MADAM AND DEAR FRIEND:

How much I am flattered at seeing, that while you are surrounded by such a crowd of pleasures, you have not forgotten your unhappy friend, and that you have found time, by means of a stratagem, to hold intercourse with me. Be assured that the kindness is fully reciprocated. Every day I have said to my husband, it seems an age since I saw Madam Gardette; I wish she would return.

I share with you in the pleasure you experience in again seeing your amiable niece, but I see by your letter that the moment of your separation approaches. Moment of sorrow! You have, however, the hope that she will come to settle in Bordeaux. Hope is always consolatory.

Your dear and excellent sister, and also your dear son, are well. Madame Caillavet is giving soirées; has attended the ball, so that I know she is enjoying herself. We have not had the pleasure of visiting for some days; the weather is very disagreeable; the rain has not yet discontinued.

We are both always very ingenious in being distressed on account of our children. We have both been convinced that whenever we do not hear from them, that it is on account of their idleness; therefore, why should you allow it to trouble you, or affect your health? Let us not, my dear friend, anticipate evils that do not exist.

Remember me, I pray you, to Madame Anita; say to her the most friendly things. I pray you thank her for the pretty lace she sent me, and say to her that I have trimmed a bonnet with it, which becomes me very much. The trimming has a very pretty effect.

Adieu, my dear and good friend; be assured of my sincere attachment. I can add nothing to the sentiments I have already expressed. My husband begs to be remembered to you, as also to your interesting niece.

Madame Caillavet having told me that she thought you must have departed from Bruge, I have delayed sending this in order that I might enclose it in hers, so that she might take it to you. I can assure you that your son has not lost his appetite, as I saw him make his second breakfast, and he acquitted himself well.

LAROCHE, née BOULIGNY.

I.—*Record, page* 503.

BORDEAUX, *September* 12, 1839.

MY GOOD AND DEAR FRIEND:

We have been in great distress on your account. For some time the news has been prevalent here, that the Bolochant had perished, corps et bien. You can judge, my dear friends, how many unhappy moments we, who are so much attached to you, have experienced, until we heard that unquestionably all these reports were false, and that the

Bolochant had arrived at a a safe port. I repaired to the church to thank God for the happy news I had received. This was the cause of a good action. I found an unfortunate old woman, into whose outstretched hand I placed a 2 franc piece, and said to her, go and hear mass, and render thanks to God that he has directed the ship safely to New Orleans. She started off, exclaiming, yes, madame, I will go and pray for New Orleans. I could not help laughing when I saw her hurrying away in that manner.

A few days after I received your amiable letter, which gave me great pleasure. I see that you have passed a most unhappy time. We had at that time the most terrible storms. I think you should entertain a grateful sense of your escape.

All that you have said to my dear Justine has produced a good effect; she has written to me twice since your arrival. Be assured of my grateful remembrance. You do not speak to me of my dear Josephine; did you send to her my letter? I think that she was in the country, and that by and bye you will speak to me of her.

Were not the letters of M. D., who has given you so many proofs of his deceit, like to the serpent? Ah! defy him.

This will be handed to you by the brother of Janet, who will assuredly visit Boloxi for the purpose of seeing his sister, and promises to give it to you himself. You have reason to be astonished, my good friends, at not having received any letters from me lately; for three months I have been afflicted with a swollen hand, of a rheumatic nature; when the swelling subsides, the pain goes to the loins. I have been obliged to try leeching and purgatives. For two months I have suffered greatly. I have been, besides, greatly occupied in attending upon my husband. He has become entirely infirm, so much so that he is compelled to lean upon my arm in going from his chamber to the parlor. Notwithstanding his sufferings, he begs to present to you his regards, as also to the excellent Madame Caillavet.

I am very happy to know that you are at Biloxi. You would do well to remain there throughout the unhealthy season. Edmund will pass a very agreeable time there; he can bathe, ride horseback, and eat oysters. I believe that he has always a good appetite. Has Gardette returned? Present to them both, I pray you, my regards.

Adieu, my dear and good friends. Believe me that you have not a more sincere friend than myself. I embrace you with all my heart. Madame Declouet united in that of the 12th of May. I cannot tell you how much pleasure your souvenir gave me.

Mr. Garnier is at Nantes. He will come to see you. Our affairs with Rival are still the same as when you left here.

L. née BOULIGNY.

J.—*Record, page* 505.

NEW ORLEANS, *Nov.* 28, 1833.

MY DEAR ZULIME: Three weeks ago I received your letter of the 26th of August, announcing the happy return of James; be assured

that I partake with you the joy you experienced. I am just recovering from a very severe illness. I have not yet gone out of my chamber. I am still very feeble, and have suffered much. This you can perceive by my writing. Yet I cannot permit the present opportunity of the sailing of the Bolochant to pass by without writing you a word. I can no longer remain in this country, dear Zulime. It will become my tomb. I am constantly falling sick here. Hence I do all I possibly can to induce my husband to leave for France. I hope to succeed in this, and that by the spring I shall see that France for which I have so long sighed. I flatter myself with the idea that you will remain at Bordeaux, and that I shall surely see you there. Do not speak to me of returning to the north; nothing could induce me to come to such a decision. I would rather die here, which, in fact, will happen to me if I remain much longer. I am still extremely feeble.

Emma is very well, as also that big boy, Alphonse. Emma promises herself much pleasure in going to France in seeing you and her dear uncle, Edmund. "I am sure," said she to me, "that my aunt Zulime will still pinch my ear, but I do not mind that, because she loves me." My children embrace you tenderly, and my husband sends his love to you. We all join in love to James and Edmund. Louisa's children are well; they remain constantly with Adêle.

Remember me, I pray you, to the Declouets, Martique, &c., and say to them that I hope to have the pleasure of seeing them in the course of the coming year.

A thousand kind remembrances to Madame Caillavet. Say to her that her sons are well, and are impatiently awaiting her.

I am, dear Zulime, forever your affectionate friend.

FANNY.

K.—*Record, page* 505.

NEW ORLEANS, *October* 22.

DEAR ZULIME: Although I wrote to you on Saturday by the "Velocipede," yet as I have just heard that the "Swiss Boy," a small packet boat, leaves to-day, and goes as far as Natchitoches, I cannot omit this occasion of writing to you, as it appears so certain. We are very uneasy about Mr. Sy——; no news of him since your last letter, and it is rumored throughout the city that he is dead. What a cruel year! I am also uneasy about James, as you tell me that he has suffered a relapse. When will our misfortunes have an end?

Would you believe, dear Zulime, that death even cannot find favor near J——h's; he is still engaged with that unfortunate Valliére, and speaks of him always with horror. You can imagine how indignant I am. Ah! there is a just God, who will reward him for all this. He left Madam Avart's house this week, and has taken a splendid one in Royal street at a hundred dollars a month. His daughter was married on the 7th of December. Every thing seems to smile upon them, except upon poor Azélie, who appears to be a martyr on earth. How

much I have to tell you that I cannot write; but I hope that we shall see each other this winter. We are in good health, but, as you may suppose, very unhappy. I send you enclosed a nécrologe on our poor friend. You will see by this, that although he has an enemy, he has also friends, who will mourn for him a long time.

Write to me, dear Zulime, and inform me what is James's decision on that which I proposed to him in my last letter.

Emma and Emile send you their love, as well as to James. Duchaufour joins with them.

The prevailing diseases have almost entirely disappeared. Strangers are arriving from every point.

Adieu, dear Zulime, affectionately yours,

FANNY.

The members of your family that are here are well. Emile has placed on board the Velocipede a letter for Madam Caillavet.

L.—*Record, page* 506.

MAY 4, 1849.

I received yesterday, dear Zulime, your letter of the 30th by the hands of a young man, who received it from James, and who has performed his commission with great punctuality. He promises to take my reply to it, if he should go to-day by the Velocipede. He made the trip in company with Jh——, and, as chance would have it, slept in the same state room with him. He will no doubt relate to you the conversation that passed between them concerning James. He is very indignant at the manner in which Jh—— spoke, and thinks, as does every one else, that it will only do him injury in the opinion of men of good sense.

I hope, dear Zulime, that James will conclude to come here in the fall; he can then have an opportunity of judging whether the amount of practice he can obtain in Natchitoches would justify him in remaining there. From what the bearer of the letter told me, James is much beloved below, is practising medicine, and is doing very well. With his talents I am sure that he will succeed, and will acquire a reputation in the profession.

How happy I shall be to have you near me! I continue to entertain the intention of passing the summer in the country. I shall lay aside some money for the purpose of replenishing my furniture in the fall, and hope that we shall be able to show an improved house between us. I fear, however, to encourage myself even in this idea, although it appears very feasible. Dear Zulime, how happy I shall be in rendering to you the attentions of a daughter and friend, who fondly loves you. Yes! I hope that between James, myself, and Emma, we may yet pass some happy days.

I have not seen Sophie for fifteen days. I shall go to see her this

evening, and will perform your commission. How happy she will be to go to you.

It is reported throughout the city that Eugene is to be married next month; I do not know, however, whether this is true.

Emma embraces you very affectionately, as well as her uncle, and is equally desirous with myself that we should be reunited. Duchaufour sends you the most affectionate regards. All your friends desire to be remembered to you. Aimée Canonge is about to move; she has taken a house with her sister, Madame Léphine. She is an excellent lady, and they will be very happy together.

I should have written by the same boat that Jh— left in, but it was otherwise determined. I had not a sheet of paper in the house, and, as it was too late to send out for it, I could not write to you.

When the gentleman came to take my letter, I had finished it, but without seeing Sophie; I will write to you soon again.

Adieu, dear Zulime; affectionately and sincerely yours,

FANNY.

M.—*Record, page* 507.

NEW ORLEANS, *Nov.* 26, 1838.

I have just rec'd, my dear Zulime, your last letter of the 28th of October. It appears to have been sufficiently long on the route, and I presume that mine have met with the same fate. The mail on this route seems to be unnecessarily slow, as I receive letters from the North in much less time. I have already noticed, dear friend, many things that you asked of me in your last letter.

In fine, dear friend, I eternally fear that we shall be the victims of fate. Have patience, dear Zulime; it is to be hoped that he will finally cease persecuting us.

Last evening I gave the parting embrace to Emile. He is sent, through the malice of ———, you know who, to Connecticut, to serve an apprenticeship to the manufacture of cassinetts. Ah! dear friend, how I revolt at such barbarity. You know that it is not on account of any interest that he takes in my unfortunate son, but for the purpose of rending my heart. But I suffer on in silence, while my heart is a gulf of sorrow. You can understand this, dear Zulime, and you alone. If I could mingle my tears with yours I should feel relieved.

As for ourselves, we shall not attend any balls this winter. Emma is no more desirous of doing so than myself. All our thoughts are with Emile, who is perhaps suffering.

I embrace my dear James, and will write to him in a few days.

Ever affectionately yours,

FANNY.

N.—*Record, page* 507.

NEW ORLEANS, *August* 22.

I received yesterday, dear Zulime, your short letter. I am pleased to learn that you are happy, having our dear James with you. I regret that the steamboat remained so short a time; but I hope the next time you will write to me more fully.

When you write to your sister Caillavat, dear Zulime, introduce my son to her; he has a small package for her from Madam Despau. Vaillere has a letter from her to you. Embrace for me our dear James. I continue to hope that, in November next, he will come here to settle; something tells me this. What happiness! We shall be again reunited; and I trust that it will be for a long time to come.

Duchaufour sends much love to you and to James.

Madam Narcotte desires to be remembered to you.

Adieu, dear Zulime; love me with the affection that I bear you.

Your sincere friend,

FANNY.

O.—*Record, page* 508.

NEW ORLEANS, *Nov.* 23.

I have received, dear Zulime, your letter dated the 25th of last month. As you see, it has been nearly a month on the route. I have written to you twice since the death of our friend. All your letters have been received.

I assured you in my last letters, my dear Zulime, of the happiness I should experience should you come to us. Why do you treat me so ceremoniously? You know that if I had but a morsel of bread, I would share it with you with all my heart. Come, dear Zulime, whenever it may be agreeable to you, and I will receive you most affectionately; the sooner the better. Say to Jenny that it would afford me much pleasure that she should come with you. I entertain a friendship for her that will only end with death. Why has not James concluded to come here immediately? Perhaps he thought it best that you should precede him. We shall see what he will do for himself afterwards. Come, then. I have fifty projects in my head; but I have decided upon doing something to earn some money in order to place you and myself in comfortable circumstances, and I think that I shall succeed.

Duchaufour sends much love to yourself and James.

Adieu, dear Zulime. Ever affectionately yours,

FANNY.

P.—*Record, page* 508.

THURSDAY, *Sept.* 5.

The Têche has returned, but brings no letter from you. I am very uneasy. Why did you not write me at least two words by Vaillière?

I am almost disposed to grumble, but fear some mishap, as I am somewhat like you, dear Zulime, imagining always some evil before it happens.

There is nothing new since my last, which was on Monday, by the the Velocipede. Have you received the one I sent by the Têche?

Your sister, &c., are all well. I will make them write to you by the next trip of the Velocipede.

Much love from us to James. Duchaufour is suffering much pain this morning from having slept with the window open. Last night it was very cold, and during the day stiflingly hot. Sickness is increasing. I must stop, as the boat leaves in an hour.

Yours, with sincere affection,

F. D.

Q.—*Record, page* 509.

April 24.

I received, dear Zulime, your last letter, of the 12th inst. Sophie brought it to me. She told me that Mr. Lémée, who handed it to her, would leave in a few days, and that I ought to write by him. As I have an excellent opportunity to send by Mr. Robinson, the son-in-law of Madam Narcotte, I prefer it. He will take with him also your bottles and basket. I wrote to you by the last trip of the John Linton, and sent you some papers.

I learn by Mr. Robinson that James intends to sell out. I knew well that he had finished; for I saw him, with regret, leave his State, where he would have made a fortune with the talents he possesses. I hope that he will come here between this and fall; indeed I am almost sure that he will do so. I still intend to pass my summer in the country, and I hope to arrive there immediately after you.

Emma is always good, and is full of talent. We lately had the pleasure of hearing a very superior pianist, Madam Yarerand. I could not have imagined that one could play so well. Emma is decided in her intention to acquire the same superiority. On our return from the country I shall make her take lessons of that lady. I hope that at that time we shall be again together. Her uncle James will greatly encourage her, because she loves him extremely, and will do all that he wishes. She will make her dêbut this winter, and hopes to have her uncle for cavalier.

My husband sends much love to you, as also to James; Emma embraces you tenderly; she is practising on her piano by my side. Alphonse is also well.

Sophie is still at Madam Woorsters; we intend dining there next week. Myra is at Mr. Bringiere's with her husband, but will remove to the St. Louis hotel about the end of the week. I never go to see her except when she comes to see me; for she would think that I am desirous of paying court to her now that she occupies so high a position; she lives in great splendour. I send you a paper announcing her

marriage with the General. I think that she will go to Natchitoches soon with the General.

Madam Narcotte sends her love, as also all your friends, who always inquire after you. Adieu, dear Zulime; think of me, and write to me often; I will do the same.

Your affectionate friend,

FANNY.

R.—*Record, page* 510.

FRIDAY, *August* 17.

You are without doubt surprised, by dear Zulime, at not having received a reply by the young man who brought your letter, but you have only him to accuse, as he left without coming near me. Gautier called upon him at the appointed time to hand him my letter, and the things that you asked for, but he had gone. Another letter, dear Zulime, which you will find enclosed, will prove to you the truth of what I say; although old, I send it to you, in order that I may avoid rewriting many things that are contained in it. The loves continue still unabated. They gave a dinner there on the 15th, the birthday of the mother and daughter; it is also yours. Dear Zulime, I could wish you nearer, but although distant I wish you happiness, and that for the future your troubles may cease. I also give you the assurance, that if friendship, and the respect of a daughter and son who are sincerely devoted to you, can render you happy, you can rely on that of James and my own. I long to see us reunited, and to dispute who shall lavish upon you the most attention. That day will come, dear friend, and Emma, that beloved child, will sue also for her share of your friendship. Yes, you shall be happy, dear Zulime; we will weep together, and we will always console you.

As you are interested in every thing that gives me pleasure, I would inform you that I have received a letter from Emile. He assures me that he is in excellent health, and that he is five feet four inches high, and weighs 152 pounds. He desires my permission that he should go to sea. I am sure that this is according to an order that he has received from M. E., for surely the child cannot really desire to follow a seafaring life, after all that he has suffered. No; that being is anxious still to give me pain by trying to separate me forever from my son. I wrote to him immediately that it was contrary to my wishes that he should go to sea, but that he should return here. If the plan that I have laid out for his future pursuit should not please him, it will then be time for him to leave here and become a sailor. But my present plan is that he return here, for I have many things to say to him that I could not communicate in a letter. I have, then, a faint hope, dear Zulime, of being able to embrace my son to my heart in the months of October or November. I fear that I shall die of joy.

I have not heard from my husband for a month. As you are near him, try and give me some information in regard to him. Write to

him a few words, and assure him how uneasy I am on account of his negligence. I fear that he may be sick.

Emma embraces you a thousand times, as also Alphonse. Present my kindest regards to James. I think that you will hardly venture to write by the Têche, since you have not received any letter from me. You should only regard it as a mistake, for you know that I am neither idle in writing nor negligent towards those that I love—as a proof, witness these two long letters.

Gautier desires me to say that he has not been able to procure a cent for his month's service in the Corps-de-garde. It is lost to him, and he has spent at least three days without having accomplished any labor in trying to recover his money.

At present he retains his place, and hopes to lay by sufficient money to enable him to join you, should he not receive the situation in the church.

Answer me by the return of the Têche; be assured that I shall lose no occasion of writing to you.

G. found that bundle of papers and letters at Mr. Jourdain's. I presume that your sisters will always send them there. If you have any thing to send to them, enclose it in my envelope and I will send it to Mr. Jourdain's. There are no letters at the office for you. Gautier always asks for them.

Gautier sends much love to his sister, and desires to be remembered to you.

I am, your affectionate friend,

FANNY.

S.—*Record, page* 511.

NEW ORLEANS, *Jan.* 24, 1839.

DEAR ZULIME: I regret not being able to see you since I have so many things to tell you, but I hope that should James conclude to make a journey here, you will accompany him. I cannot take a refusal, and shall expect you with him. I trust that it will be myself that you will come to see this time. I have been twice disappointed in the hope of having you with me; the third time I merit your company, I think, for my patience. So I trust there will be no refusal.

I shall send this by the steamboat "Alexandria," as also some papers that I have collected together. The Canonges have experienced much trouble. Lephine has been almost at death's door, but was better yesterday; he had the dysentery. Mr. Albin Michel, sr., died 15 days ago. Old Judge Martin is also dead.

Emma embraces you and her uncle a thousand times. Duchaufour sends you much love. Alphonse is well and embraces you. I received a letter from Emile of the 1st of January. He is well, and desires much to return to me.

Adieu, dear Zulime; I am your affectionate friend,

FANNY.

T.—*Record, page* 511.

JANUARY 23, 1840.

DEAR ZULIME: It is not my fault that I did not write by the Têche as you will believe. I wrote you a long letter by the "John Linton." I hope you will receive my letters by all the boats; but I trust that a month will not pass without my seeing you. The river is now very low, and I would, therefore, advise you to take advantage of the next trip of the Têche.

Since I received Madam Buard's letter, I have heard nothing of you. I hope that it is not on account of illness. Give me some information about James; whether he has decided to come here and establish himself. I have not seen your sister since my last letter. I will give you some information in regard to her in my next letter, as I intend going to see her.

Emma sends much love and embraces you; also her uncle. I join with her.

Duchaufour desires to be remembered to you, as also the Gauchets. Seline is confined to her room by a miscarriage of three months. It is the third that she has had since the birth of her last child. Her mother's arm is almost healed. They have many boarders, are making money and live well.

Bournos is still here. He has dined with us twice without invitation; and Eugene, who came to see us yesterday (because he leaves for college to-day) says that Bournos dines with us almost every day. Miracles will never cease. How I long to see you; all that I wish to tell and say to you could not be written.

I have just been told that a boat leaves at four o'clock. I must close in haste.

Adieu, dear Zulime, I embrace you to my heart.

FANNY.

V.—*Record, page* 513.

NEW ORLEANS, *February* 27, 1826.

SIR: I have not the honor of knowing you except by reputation, but I have the pleasure of being well acquainted with your family which is highly respectable, and which enjoys here the respect and esteem of the first families. Sir, your son is distracted, because the respectful and submissive steps that he has taken and still continues to take, does not procure your pardon. Sir, I join with him in throwing himself at your feet, and conjuring you to write to him in token of your satisfaction, and of having forgotten the wrongs that he has committed against you, and I can assure you that it has arisen entirely from his exuberance of spirit, and not from premeditation or from his heart, which is truly repentant, and which needs your recognition in order that he may be happy. I earnestly trust that you will not reject

4927.

my prayer, and that you will have the kindness to respond favorably to this in order to console your son and Madam Avare, his and the one who has the honor to be, with respect and consideration, your very devoted servant,

L'ABBE MONE.

Record, page 514.

APRIL 6, 1826.

SIR: I received, four days ago, the letter that you did me the honor to write to me on the 27th of February last, and I hasten to reply to it, although from a letter I received from my son 10 days since, dated the 27th of the same month, I suppose that he will not be in New Orleans when you receive this, since he told me that he should leave for Kentucky on the 15th of March. That letter, and another that he wrote me on the 7th of December, 1824, are the only ones that I have received from him since he left my home at my command, September 21, 1821.

He wrote to his brother the 21st of last July, informing him of his approaching departure for Louisville, and giving him his address to the care of a merchant of that city. I took advantage of that, and wrote to him to that address in the month of August; it appeared afterwards by his last letter that he did not receive mine. I am going to write to him by the next mail, and if he should not be in New Orleans when it arrives, it can be sent to him wherever it will probably find him. I have given him my pardon three times, as I do now, and have never failed to wish him happiness and prosperity, although in a letter that he wrote to his brother some days after his marriage he says, "although I suppose I have the maledictions of my father, yet I am perfectly happy, and very well contented with my lot."

Since you have had the goodness, sir, to interest yourself in this young man, he has, without doubt, as he should have, every confidence in you. I can, therefore, enclose in this letter a copy of that which I wrote to him in August last at Louisville. You will there see, sir, that I have pardoned him a number of times, as I now do; but I cannot forget certain wrongs that he has committed against myself and my wife, and of which I am persuaded he has not informed you. They were very weighty injuries. Notwithstanding, sir, they have all been pardoned. If I could have the pleasure of conversing with you viva voce, I could say many things on this subject that I dare not confide to paper, and which would prove to you that it is not mere rashness that has controlled his conduct, as he would make you believe.

If it is true that my son "enjoys the esteem, the confidence, and the consideration of the first families, (I understand by that the honest men of New Orleans,) he cannot fail to do well. Wherefore is he then always travelling about? He is distracted you say "because that the respectful and submissive steps which he has taken does not pro-

cure your pardon." Without doubt you know, Mr. Abbé, that a father is always inclined to pardon the faults of his children, but there are those so serious that it is impossible to forget them, although he may pardon them. These respectful and submissive steps are no doubt contained in the two letters that I have received from him, and if that is the case, I can assure you that they are very insignificant.

I greatly fear that his wife's parents, not seeing any glaring faults in him, have neglected to inform themselves whether this young man was capable, by his industry, to supply the wants of a family, which, ordinarily, increases much more rapidly than the revenues. I know something about this, Mr. Abbé, as I have brought up twelve children, and have worked for forty years in order to procure a small independence for my old age, but which I could never accomplish. I am still obliged to labor, without the aid of either of my children. It was my son Joseph, as the eldest of those that are left to me, that I had fixed upon to succeed me in my practice, which is very lucrative for a young man, recommended by myself; but it would have been necessary that he should remain with me, and should have waited until he was well established in business before marrying.

I beg you, sir, to present my respectful sentiments, &c., to Madam Avard, although I have not the honor of being acquainted with her, but for whom, after all that I have heard of the goodness of her character, I entertain the highest respect. My daughter, Madam Le Roy, who desires me to present to you her respects, tells me that Madam Avard intends passing the coming winter in Philadelphia. If this should be the case, Madam Gardette would feel extremely flattered if Madam Avard would accept a room with us. I join with my wife in beseeching this lady to accept her offer, as her ——— my wife trusts that Madam Avard will not refuse us this favor.

Accept, I pray you, sir, my very sincere thanks for the interest that you have had the kindness to take in my son. I sincerely trust that he merits it. It would have been very fortunate for him if, upon his arrival in New Orleans, he had had the happiness to make the acquaintance of some good man, with whom, as with you, the holy profession conduces always to impart salutary advice to youths—he who had so much need of it.

Be assured, I pray you, sir, of the lively remembrance, of the respect, and of the high consideration with which I have the honor to be, your greatly obliged and devoted servant.

Rec'd March 31. Replied to April 6, 1826.

W.—Record, page 515.

My dear mamma: I love you, and wish you fifty happy years; and I hope that, at the end of your days, you can say that, since the 1st of January, 1822, I have comported myself in a manner to merit your friendship and esteem. I hope to prove to you that I am not ungrateful, and that a bad example can have no effect upon . I thank you for your numberless kindnesses.

Ever your son, EMILE.

1928.

X.

PHILADELPHIA, *July* 2, 1829.

DEAR MAMMA: You will not be surprised that I write you a short letter, compared to the one I wrote to my father in English. It is not that I am at a loss for matter, or that I entertain less regard for you, but simply because I express myself with difficulty, and am constantly in fear when I write in French. It is time to have received news of your arrival at Havre, unless you have forgotten to write to us immediately. You cannot imagine how uneasy I shall be, perhaps for some weeks, arising from this state of uncertainty. The thousand dangers which may surround you at sea, and also the delicate state of my father's health when he left the United States, render me unhappy, although I vainly endeavor to think my fears are unfounded.

July 30th. I commenced this letter under the supposition that Mr. Phiquepal was to have left for France and Agen; he has postponed his voyage, and in the mean time I have received the long looked for letter announcing your arrival at Havre. But, mamma, it was not your handwriting. Papa, who seldom or ever writes, took pity upon me; knowing that all the family except myself would be written to, took pity upon me, and gave me a very detailed and amusing account of the voyage. How shall I punish you? In making you read my bad French. Not writing to you would be poor revenge, since I cannot compose a French letter without causing a most unpleasant sensation to he or she who has to read it. I am almost inclined to send you a dozen pages. But, no, it would be too great a punishment for so slight an offence. I will be more generous—and, without pardoning you instantly, I wish to grate your ears with horrible words, badly arranged; and when you send me four pages, written in your fluent and agreeable style, I will send you my written pardon. Will you consent to this judgment of the supreme court? If you wish to amuse yourself, dear mamma, study English. I recommend you to read my letter to papa; you will there find all the news of the day; I will here give you a sequel of it. Guess who is married? No; no; no; no; go on, you will never guess—the elder Abadie. I beg you to tell James and Edmund to write to me; and, if you desire to receive good letters, you know whom to write to. I will always reply promptly; but if you do not write me, I will send you four long letters by each ship. My wife's health is much better since we moved; she sends her kind regards, also, to papa. When she is better, she will write to papa in English. I am awaiting details from Agen in your letters, and am in hopes of being made known to all my relations through you. I embrace you with all my heart.

Your son and friend,

EMILE.

Y.

ALEXANDRIA, *January* 30, 1825.

I hasten to reply to your amiable letter of the 23d, dear mamma, to assure you how sensible I am to the trouble you have given yourself to convince me of the injustice I have done Madame G. If I have been mistaken in regard to her, I shall be truly happy. I entertain a very sincere regard for all her family, and I am gratified to be assured that it is reciprocated. The incorrect judgment I had formed, arose from circumstances told me by one who I believed to be my friend; but I much prefer thinking well than ill of any one, and above all those whose esteem I would possess.

That which you call nonsense, dear mamma, affords me no less pleasure than a happy carelessness in the epistolary style of those who are dear to me, is an emblem of their sincerity. Words thrown upon paper, without bestowing that particular attention to the formation of the letters, assures us that the ideas flow directly from the heart. It is even a satisfaction to be obliged to retire and examine before being able to discover the sentiment that we love. Precious stones, you know, are only found by delving for them. I wish to hear no more apologies for your bad writing; and, moreover, not to be deprived of your correspondence because I am not there to direct your pen.

A letter from Louisa, which I received yesterday, announces the painful intelligence of the indisposition of my dear father. You gave me much more agreeable information when you stated that he had breakfasted with the Count Survilliers.

I have not yet seen my amiable friend Guegan since my departure from Washington, now eight days. I received a long letter from him yesterday; his affairs detained him; he says he will write to you, also to papa.

I beg you to remember me to all my amiable friends and acquaintances in Philadelphia. I should be much distressed if I supposed I had acted badly towards that gentle young lady. What I said to her at Madame B's was simply done to justify me in an affair which I did from pure courtesy, and which her mother, it appears, misunderstood. I hope the subject will not again be alluded to, as it will give it too much consequence. I thought so little about it that I spoke to D's mother when we met at the children's ball as if nothing had happened.

Adieu, my mamma; believe in the devoted attachment of your son and friend.

EMILE.

My love to Louisa, James, and Edmund.

My greatest expense for pleasure is in tobacco. I carry my snuff-box and take it like a grenadier; this is better than chewing, smoking, or drinking; and it is absolutely necessary that I should have some habit that will reconcile me in my exile.

4729.

Z.

"Because it is generally admitted that we ought not to love a step-mother." I do not believe I could ever have written such nonsense under any circumstances, and certainly such sentiments never had place in my heart. I am not in the habit of making great professions of affection; but, since the age of discretion, I believe I have fulfilled my duty towards my parents. Elizabeth desires to be remembered to you. We send much love to Edmund. We should be most happy to see you. Say many kind things to Madame Caillavet for us, and to your friends in Bourdeaux who know me; Madame and Monsieur Bouchon, and others often spoken of by James, who I have taken a great interest in; and should any of them ever visit my country I shall be happy to take any occasion to prove my gratitude for their kindness to my family.

Adieu, my dear mother. Do not forget to inform me of your departure from Bordeaux, and the name of the ship.

I do not know whether I have said all I intended, as my head is completely confused with so much business, not only about my profession, but for others. You will excuse the many faults which you will find in my letter, as I cannot examine it.

With much affection, your son,

E. B. GARDETTE.

A—2.

PHILADELPHIA, *June* 22, 1822.

To Mr. JOSEPH GARDETTE, at Agen.

MY DEAR UNCLE: My father having sent me your letter of the 15th of October, 1821, I see that you inquire for me and my young sister, and I cannot forbear writing to you in order that I may do justice to truth.

I must now tell you, my dear uncle, that that which my brother has told you in relation to the conduct of mamma towards him, myself, and my younger sister, is without truth; but, on the contrary, she has been particularly kind to him, and has always given us the best advice.

As papa has written to you I suppose he told you a great deal about Joseph, which, however, could not have astonished you much, when you remember the manner in which he has treated you for all the kindness you have shown him.

Present, I pray you, my respects to my dear aunt, also to my amiable cousins, and believe me, with sentiments of esteem and consideration, your affectionate nephew,

E. B. GARDETTE.

Record, page 801.

BORDEAUX, *July*, 1801.

MY DEAR SIR AND FRIEND: Although uncertain whether you are at New Orleans, I hasten to seize the opportunity of the sailing of the

Natchez, to furnish you with some news. I hope my letter will find you in good health. When one has such a friend as you, we cannot feel too deep an interest in him.

I have received here a great deal of politeness from Mr. John Bernard, merchant, a friend of Mr. Chew, who is doing a very great business now. He spoke a great deal of Mr. Chew to me, and his politeness to him while at Bordeaux. He was introduced to me by Mr. Cox.

There has been many arrivals of American vessels in this port since I was here last. Colonial goods are selling very well. I think if your friend from Philadelphia were to make a visit here, he could make a profitable speculation on his return voyage.

Do me the kindness, my dear sir, to write to me. It will afford me much pleasure to hear from you. Several American vessels are about to leave, to come directly here.

Present my compliments to Mr. Chew, and beg him, whenever he writes to Mr. Bernard, to speak of me. I have taken the liberty to inclose, under your cover, a package for my wife, which I beg you to remit to her. Permit me, my dear friend, to reiterate my acceptance of the kind offer you made me before I left, and should my wife find herself embarrassed in any respect, you will truly oblige me by aiding her with your kind advice. I expect to leave in a few days, to join my family. I hope to return to Bordeaux in two or three months, to terminate my affairs here, and to make preparations to meet you. I have been some days engaged in a law-suit, for the purpose of recovering an estate belonging to my wife's family. I shall place this affair in Mr. Chicou St. Brie's care, during my absence. I fear that I shall have to expend a great deal in this affair. I have charged Mr. Bernard with the care of other business. I have yet not heard from my wife, which renders me very uneasy as to going to Provence before I hear from her. It is said that peace will be declared by the end of the year, but I have my fears whether we shall enjoy that happiness. Hoping to have the pleasure of hearing from you soon, I am,

Most truly, your friend,

DES GRANGE.

Write me to the care of Mr. Jean Bernard, merchant, at Chartron, Bordeaux.

No. 54.

NEW ORLEANS, *the* 1*st Fructidor, year* 11.

THE COLONIAL PREFECT OF LOUISIANA TO MR. CLARK,
New Orleans:

I thank you, sir, for the communication which you have made to me by your letter of yesterday.

I congratulate the United States on their magnificent and important acquisition.

1990.

I envy them the opportunity they have of contributing to the happiness and enhancing the prosperity of this country, not the less interesting as to the fecundity of the soil as in the excellent character of its inhabitants.

At the same time that I have taken the oath of fidelity from the veritable interest for it, I feel that everything on the part of the United States indicates a happy presage to it.

Not having, in my official capacity, any instructions from my government in this respect, I await its orders and instructions to direct my actions. I have the honor to salute you.

LAUSSAT.

To Mr. CLARK, N. O.

AA.—*Referred to in Mr. Zacharie's deposition. Record, page* 909.

MY FRIEND: I have never forgotten you, and your last mark of friendship shows me that the constancy of the misfortune that attaches to every thing that relates to you, does not yet equal your own constancy.

That which you told me has been transcribed, word for word. I cannot recall now precisely what I have been able to write. I have never been the enemy of the Americans; on the contrary, I love them; but their government, in Louisiana, at least, has appeared to me so vexatious, that I would have sacrificed every thing to have removed it, or to have estranged myself. I have never accepted of employment without doing so reluctantly; I have never accepted any appointment, although, as you know, very lucrative ones have been offered to me. If I had been cringing, capable of sacrificing friendship and gratitude to base intrigue, I should have been made one of the gods of Louisiana, as you well know; but since I have sacrificed intrigue to friendship, I have become one of the bêtes noires of his excellency, but chiefly for having broken up his project relative to the revolution of Mexico. But this contained no intentions against the Government, at least that did not appear. I told you, before my departure, the desire I entertained of seeing Louisiana reannexed to Spain, and I wrote to you, I believe, without being able to assure you positively of it, how much I was rejoiced that that moment was near, and how happy I should be in co-operating to accelerate the union. But my time has been constantly employed in laboring to procure a homestead, and draw around me those who sympathize with me in sentiment; that is to say, those who prefer a monarchical government to a government simply free, where, under the pretence of redressing injuries, the grossest intrigue and deceit is practised.

If I was alone and without family, in New Orleans, I should have but little hesitation in expressing myself freely and without concealment. I have never taken any oath of fidelity to the Government, except so far as regards the employments that I have exercised, and that only during the time of their exercise. I have never desired to

become an American, and have never taken the oath of being so during my life. If I had done either, I should reproach myself for vacillation, but I have not changed; I have served my country in all that she has forced upon me, but nothing further; and since that it cannot be returned to Spain, or at least is not so yet, I was left free to leave it. This is what I have done, and I shall never return to it to remain permanently, as long as it remains such as it is. Notwithstanding, as it is necessary that I should go there to fulfil certain sacred engagements, which usury, fraud, and all that follows in its train, has contracted, I rely upon your friendship, as you can rely upon mine, to advise me of every thing that will tend to prolong my stay in Louisiana, as it will give rise here to much prejudice, and may injure me in my efforts to establish myself.

Should you be persuaded that what I have said or written will compromit me, seek an interview with L , and together engage my family to await me at Pans'a. Neither you, my friend, nor L., shall suffer from advances made for this purpose, as I am in a position to be infinitely useful to you. This I will detail to you at another time. In the mean time, receive my thanks, and believe in the gratitude of your sincere and devoted friend,

BELLECHASSE.

Havana, October 9, 1814.

BB.—*Record, page* 910.

Referred to by Mr. Zacharie in his deposition.

J. W. GURLEY, *Com'r.*

The same date.

You have only yourself to blame, my dear friend, if I have not made a reconveyance of the property that our friend Clark sold to me. I have offered to do so on many occasions, and under some pretext you have always put it off, and permitted me to go without speaking about it; and if you had not directly addressed me upon this subject, I swear that I should never have thought of it, either as a matter of restitution or as a bequest to my unfortunate children. If Providence had determined my days, although it would have pardoned so innocent and involuntary a robbery, yet my children would never have been benefitted by it, since there is no document existing which could prove that it was anything else than a fictitious sale.

Although it is of little consequence to me, yet, having reflected upon the infamy to which M. Livaudais has exposed me, and which, by a piece of chicanery, may be turned to your injury by attaching these lands to my own personal property, I have therefore considered it my duty to write to you, which I now do, and send you the accompanying document in order to prove that my declaratory act was made before I left Louisiana, and placed in the hands of Pedesclaux. I have

preferred this, persuaded that you can do, at a little expense, all that can be done, and in order that he cannot, in case of a requisition, do any evil, obtain an interview with him, recover from him the documents, for which you will give him your receipt, and all will be finished. Notwithstanding, if this does not suffice, and you prefer that I should make a notarial act, let me know it, and I will do all that you may suggest; and in this case, should Providence dispose of my life, my will, which was in the hands of Messrs. Livaudais, father and son, will attest that I make no mention of these lands, which will show that they do not belong to me.

I have on many occasions desired Baron and others to send me two ox ploughs, two small horse ploughs, and . If Baron has not the opportunity of sending them, I beg you to do me that service. You can send them, on account, to Mr. Ynnerarity, who will forward them to me. I should be obliged to you, if you would send me by the same opportunity a small , and a carbine that I have at Mr. Marigny Dauterive's. If it is not in a good condition, you will oblige me by having it repaired, and a mould made for it.

My wife, to whom I read your letter, wept much; although feeble, she unites with me in praying to be remembered to your dear lady. With kind regards to all of our friends, I am your devoted

BELLECHASSE.

When I shall be more to myself, I will write to you again. Yet, before finishing, I pray you to see my sister Foulon, and if, as do not doubt, she needs my aid, assist her, and you will lose nothing with your friend.

(CC.)

Referred to by Mr. Zacharie in his deposition (*Record, page* 1028.)

A la Reunion Désirée, Jurisdiction de Matansas, 31st January, 1816.

I received your letter, my dear Relf, of the 18th of last December with much pleasure, but I have failed to receive the one that you tell me you wrote in reply to mine from Havanna in October or November, I believe, of 1814. In your last you wish me happiness; but, my dear friend, it is as far from me as I am unworthy of having merited the calumnies which a blind malignity has launched against me; and also the discreditable reflections that the conduct of Mr. Livaudais, under the cloak of operating for my interests, has raised among his partisans, and those who are courting their ruin by relying upon his friendship and employing his services. Persuaded of the disposition you entertain to do me justice, knowing by experience my manner of intercourse, my fidelity in contracts, the inviolability of my word, the dishonor that I have always attached to bankruptcy and speculation, my devotedness to the principles of gratitude and friendship, it seems to me to be use-

less after this to enter into details in order to prove that I did not bring with me a cent from Louisiana, received, or to be received, or have caused to be received, one obole and that I have not at this time one maravedi, that I may call my own. The younger Mr. Baron can describe to you my position; he will tell you that I hope, if God spares my life, to share the benefaction of a generous friend, and that, while I am awaiting it, my family and myself are dependant upon the kind assistance rendered by others.

Relying upon your friendship and the fidelity of Mr. Lavaudais, I left Louisiana with his approbation, expecting to return immediately, and without taking any precaution, not having any suspicion of his perfidy, leaving with him the disposal of my destiny, and that of my family, that he has ruined, by abusing my confidence and endeavoring to ruin my reputation, when I was making, and did make, every kind of sacrifice to redeem him, being the only one who, as my endorser, would have been the victim of a bankruptcy had I have had a soul sufficiently base to have become so. This conduct on my part, my determination to sacrifice every thing for him, was, without doubt, the reason why he awaited my return, or wrote to me before exposing me in the public journals. It was ignorance that caused me to be looked upon as shameless, because I astonished persons by not evincing signs of mortification when I spoke to them of affairs that they had of their accord offered me some time before, and pressed upon me to accept it. No, my friend, when I discovered the cause of this change, and I knew that I was indebted for it to Mr. Livaudais, a thunderbolt could not have more suddenly crushed me; I remained stupified, and if Mr. Forbes had not have been well acquainted with me, I should now be reduced to begging that bread that my sisters supply to my unfortunate family. My friend, if you still remain faithful to me, and I cannot doubt it, although my country has become odious to me, I would still have justice rendered to me. For this purpose, I designed sending you my power of attorney, but remembering that you had suspended our correspondence, and hence concluded that you had forgotten me, I in consequence wrote to my brother-in-law, Edward Ducros, enclosing my power of attorney to protest against that which Mr. Livaudais had done for me in abuse of my confidence. As it would take too long to enter into new details, I send you enclosed a copy of my letter to him, and also of the one written to Mr. Livaudais, and as the one to Mr. L. was enclosed in that to Edward, should he not have received it, give him this copy as original, and hand to Mr. Livaudais that addressed to him, and beseech Edward to serve me as a brother; as I pray you serve me as a friend.

In regard to the subject of your last letter touching the estate of our late interesting friend Clark, it is true that he sold to me his property on the bayou; but it is also true that that property does not belong to me, and that the sale was merely fictitious, although there does not exist any document which can prove the contrary, except one that I placed in the hands of Mr. Pierre Pedesclaux to your address, in case

of my death, or that any accident should happen to me. Although he gave me a receipt for the document, yet it is impossible to send it to you, as my papers have not yet been sent to me from New Orleans; this however will duly authorize him to deliver it to you, assuring him upon my word that I will send the receipt to you as soon as my effects shall have arrived, should they ever do so, for I am so unhappy that I no longer count upon anything. But in any case your discharge will be sufficient for him, for being dead so far as regards my country, thanks to ingratitude

I have seen nothing in nature more beautiful, more attractive, or that offers more resources, than the country in which I now live. I congratulate myself at being here after my reverses of fortune. My poor wife indulged the same feeling; but destiny, ever jealous of our quiet happiness, sent an unwelcome visitor to us in the form of death, which has taken from us our son, our dear child, my dear Adolphe, reducing his mother to the verge of the grave. Yes, my friend, my dear Adelaide is dying; she had the misfortune to lose her son on the eighth of this month. Pardon me. I cannot continue. Adieu; sympathize with your friend.

BELLECHASSE.

DD.—*Record, page* 913.

REUNION DÉSIRÉE, JURISDICTION DE MANTASAS,
October 23, 1822.

MY DEAR RELF: For a long time I have believed that you, as well as all those that in the days of prosperity were accustomed to call me by the pleasing name of friend, had forgotten me; but I must except you, as you tell me that I am still remembered by you. I ought not to complain, as this is more than I receive from the others.

Seeing that I did not receive any reply to the subject of the declaratory act that I sent you, substituting you in my stead and place, for the purpose of carrying into effect the intentions of our late friend, Daniel Clark, in regard to Miss Myra, I wrote to different persons, among others to Mr. Baron, jr., for the purpose of informing myself whether you had received the said act; and although I have received letters from him, he has not in the least satisfied my inquiry, and without your last letter of the 21st of August I should still have been ignorant of its fate.

I wrote on this subject to our friend, Mr. Huling, and to Mr. Davis. I referred them to you and to the aforesaid act, which is, I believe, as comprehensive as possible, and which proves sufficient. Moreover, in the unhappy condition in which I find myself placed, could it have been possible for me to have deviated from my principles, and not to have fulfilled exactly the intentions of Clark and my verbal instructions, I could have done so without any opposition; but it would have been an abuse of his confidence, and he well knew the bosom in which he confided. I can change nothing, then, that I have laid down in

my declaration without perjuring myself, and opening the door for proceedings on the part of Myra, which she would be perfectly justified in instituting. Moreover, what could I say different in a new power? especially since you have not sent back the first. I cannot now remember the precise expressions of Clark, but at the time of making my declaratory act they remained fresh upon my memory. In regard to M'lle Caroline I can say, and even swear, that Clark had too noble a soul and a heart too well disposed, (trop bien placé) to be capable, having two children that he adored, to have wished to favor one by leaving the other exposed to beg its bread, and the vicissitudes that misery brings in its train. I do not doubt but that if the will that Clark made had not been lost, it would have been seen that a part of the property he confidentially entrusted to the Chevalier de la Croix was designed for M'lle Caroline, as Mr. and Mrs. Harper can attest, who affirm that Clark had avowed this intention.

Mr. Clark had as much confidence in the Chevalier de la Croix as he had in me, and I believe that he equally merited it. I therefore regard it as the merest chance that he designated M'lle Myra in place of Caroline. If, then, Caroline had been specifically designated, Myra would be in the same position to-day that she (Caroline) is; and how could she take the property? Is it not the duty, then, of one whom chance has favored contrary to the will, without doubt, of a tender and virtuous parent, to bear in mind that a partition would be but an act of justice that heaven would bless in prospering her, and which I demand in the name of her worthy father, whose manes suggests to me the counsel that I give to her, and who will merit universal approbation if she but conforms to that which I recommend? Should she yield to this suggestion, you will in that case send me her authenticated declaration, and the consent of Col. Davis, also sending back my declaratory act, and I will remit to you such a power of attorney as you may desire, conforming it to the model that you furnish me. This is all that I can say in reply to your letter.

Devotedly your friend,

JOSEPH D. DEGOUTIN BELLECHASSE.

P. S. If it should happen that that which I propose cannot be done, take out a commission to procure my own and Mr. and Mrs. Harper's testimony. It cannot be taken before an American consul, as there is none here, but there are many respectable Americans to whom you can apply; such as Messrs. Jean Latting, George Miller, Phillip Dickinson, and others.

Exhibit (P) filed with the answer of F. D. de la Croix, record No. 150, *Myra Clark Gaines* vs. *De la Croix et al., page* 40.

Be it known, that this day, before me, Marc Lafitte, notary public, in and for the city and parish of New Orleans, and in presence of the undersigned, personally appeared Richard Relf, of this city, and in the

name, and as testamentary executor of the estate of the late Daniel Clark, and administrator of the effects composing his succession, and by reason of a public sale made by order of the register of the court of probate on the fourth and fifth days of the present month, by these presents doth sell, relinquish, and convey, now and forever, with promise of warranty against all difficulties as to the right of property, and the diseases prescribed by law, as well as against all debts and hypothecations, as is shown by the certificate of the conservateur of this city, bearing this date, to Francis Dussuau de la Croix, of the parish, for himself, his heirs, or assigns, twenty-three slaves, named as follows, to wit: Polly, and her two children John and Julien; Meron, Phœba, Hebo, Tom, Turkey John, John Jambon, Fanny, Wallace, Levin, John, Winny, Esther, James McCall, Hannah, Phil, Betsy, Monson, Esther, Morning, Cambridge, and Rachael, all of which are well known to the purchaser, and form a portion of the succession of the late Daniel Clark, to whom they belonged.

This sale is made in consideration of the payment of the sum total of eighty-eight hundred dollars, the price of the above mentioned twenty-three slaves, and which sum the said purchaser has paid, and herein acknowledged, to the said seller; who, in virtue of his aforementioned character, by these presents, gives a good and valuable discharge and release to the said purchaser, with renunciation of the law, non numbrata pecunia, and others relating to it.

And the said seller, by virtue of his afore mentioned character, conveys to the said purchaser all the right and title that the said Daniel Clark had or could have possessed, or could in any way appertain to his heirs, in and to the said twenty-two slaves, and by these presents sold to the said purchaser, and whose true and lawful right to dispose of the said slaves as his own property is hereby recognised.

Done and passed at New Orleans, in this office, the sixteenth day of October, in the year of our Lord one thousand eight hundred and thirteen, the thirty-eighth of American independence, in presence of Jean Baptiste, G. Feron, and Michael J. B. S. Fourcissy, both of this city, who, with the afore mentioned parties, have affixed their signatures in my presence, after having read it.

DUSSUAU DE LA CROIX,
RICHARD RELF, Ex.
FOURCISSY,
J. FERON,
MARC. LAFITTE.

Printed record, page 221.

Before Savinien Blanc, public notary, commissioned by the city and parish of New Orleans, in the State of Louisiana, and residing there, and in the presence of witnesses hereafter named and undersigned, appeared MM. Richard Relf et Beverly Chew, proprietors, residing in that city, stipulating, in this instance, in their quality as testamentary

executors of the will of the late Mr. Daniel Clarke; and, in addition, acting as the legal holders of general and special powers of attorney for the widow, Mrs. Mary Clarke, residing in Germantown, in the State of Pennsylvania, mother and sole heiress of the said Daniel Clarke, deceased, according to records made under private seal, dated on the second of October, one thousand eight hundred and thirteen, and deposited in the office of the late Mr. John Lynd, notary, according to records relating to his report, dated on the twenty-second April, one thousand eight hundred and seventeen.

The said gentlemen appearing have stated and declared that, in consequence of the public sale and auction which they had ordered to take place on the nineteenth of the month of December last, through the agency of Mr. Toussaint Massy, auctioneer of this city, of the estates composing the inheritance of the said Mr. Daniel Clarke, deceased, they sell, give up, convey, and relinquish, from this time and forever, with the promise, in their quality, and in the name for which they act, to guarantee against all trouble, dispossessions, and all other impediments whatever, as well as against all debts and mortgages, as it is thus proved by the certificate of the recorder in this city, and bearing date the twenty-seventh December last, and hereby represented.

To Mr. Louis Bierra, residing in this city, here present, accepting and acquiring for him and his heirs, or those having any right on his estates.

The ground is located in the Faubourg St. Mary, near this city, designated by the number one, upon the figurative plan of the eleven grounds located in the said faubourg, the property of the said Mr. Daniel Clark, deceased; drawn up by Mr. Joseph Pilie, surveyor of this city, and dated on the fifteenth of December last; which plan has been deposited in my office by the said vendors, in their quality, according to my report, dated the twenty-seventh of the said month; the said ground forms the corner of Poydras and Philippa streets, called Fortier, having sixty feet in front upon this last street, and eighty-nine feet nine inches of depth, (French measure,) facing Poydras street, bounded on one side by lot number three, and in depth by that designated under the number two, such as the said ground is in condition and demeanor, without reserving or excepting any thereof. The property at present surrendered forms a part of the estate composing the succession of the said Daniel Clarke, as having been bought by him, with a greater extent of land, of the late George Ross, according to a deed executed by the late Mr. Pierre Pedesclaux, who was, when living, notary, and dated of the twentieth August, one thousand eight hundred and seven.

The present sale is made and agreed upon for and in consideration of the sum of 700 dollars, which the said purchaser, according to the conditions of the sale made at auction, promises and obliges himself to pay and acquit in three equal instalments, in one, two, and three years, to be dated from the day of the said adjudication. For this purpose he has presented and delivered three notes, signed by him, dated from the nineteenth December last; each of them of the sum

of two hundred thirty-three dollars thirty-three cents one-third, to the order and endorsed by Mr. Joseph Seguro of this city, and payable, the first in one year, the second in two years, and the third in three years of their respective dates; which notes, after having been signed, countersigned ne varietur, by the undersigned notary, for the purpose to identify them with the present deed of sale, have agreed upon, received, and withdrawn, by the vendors, who acknowledge this, and declare it in their quality, by giving a discharge to the said purchaser under the fact of their payment at their respective expiration; and, as security for the payment of the said three notes, amounting together to the said sum of seven hundred dollars, the estate, at present sold, remains and stays specially assigned and mortgaged in favor of the succession of the said Daniel Clark.

And, providing execution of all that precedes, the said vendors, in their quality, and in the name in which they act, make over to the said purchaser all the rights of property that the succession of the said Daniel Clark has, or can have, to the ground now sold, to the end that the said purchaser, who, since the day of said adjudication, acknowledges himself of it to be in good and legal possession, may possess, exercise, and dispose of it, at his will, as of a property legitimately appertaining to him in consequence of the present act.

Done and past at New Orleans, in my office, the second of January, one thousand eight hundred twenty-one, in the presence of MM. Hugh K. Gordon and Lewis M. Taney, witnesses, who have signed with the contracting parties, and the public notary has subscribed after reading being made.

Signed. RICHARD RELF,
BEVERLY CHEW,
LOUIS BIERRA,
L. M. TANEY,
H. K. GORDON,
SAV. BLANC, *Public notary.*

I, the undersigned, Felix Grima, notary public, duly commissioned, and bound in oath, in and for the city and parish of New Orleans, State of Louisiana, and residing in the same, certify, that the preceding is a true copy of the original, which is to be found amongst the records of Savinien Blanc, formerly notary in this city, and of whom I am the successor in office.

New Orleans, this twenty-seventh of December, one thousand eight hundred forty-four, the sixty-ninth year of the independence of the United States of America. (Twenty-three words erased, null.)

F. GRIMA, *Public notary.*

Before Carlile Pollock, public notary, at the residence of New Orleans, State of Louisiana, United States of America, and in the presence of the witnesses hereafter named and underwritten, have been presented the gentlemen, Duhart and Jacques Zino of this city, syndics of the credi-

tors of Mr. Louis Bierra, which, in their quality, and in consequence of the public sale which has taken place the fourteenth instant, at the exchange of Elkins, by Dutillet, auctioneer, according to an order of the court of this parish, have by these presents sold, given up, and transferred from the day of adjudication, with security against all troubles, donations, debts, mortgages, dispossessions, transfers, and all other hindrances whatever, to Mr. Raymond Mansana, domiciliated in this city, for him and his heirs, or those having any right on his estates, a lot situated at the suburb St. Mary, near this city, forming the corner of Poydras and Philippa streets, called Fortier, having eighty-nine feet nine inches facing Poydras street, and sixty feet facing Phillippa street, (French measure,) appurtenances and dependencies, without excepting or reserving any thing thereof, the whole in such demeanor and state as it is, and well known to the said purchaser. The estate presently sold is a part of the estate relinquished by Mr. Louis Bierra to his creditors, and belongs to the said Bierra for having acquired it from MM. Richard Relf et Beverly Chew, executors of the will of the late Daniel Clark, by a deed reported by Savinien Blanc, notary in this city, of the date of the second January, one thousand eight hundred twenty-one; and further, the said estate is free of all mortgages, from the certificate of the keeper of the public records, and dated this day; the present sale is made for the sum of nine hundred and fifteen dollars, the price for which the said ground has been adjudged to the said purchaser, who, in conformity with the conditions of his adjudication, has paid ready money in sight of the notary and the undersigned witnesses, to the gentlemen vendors in their quality, the sum of three hundred and five dollars for the third of the aforesaid sum, and a good receipt is given to him concerning the other two-thirds; the said purchaser has supplied in payment of them his two notes each, one of the sum of three hundred and five dollars and by him underwritten with his usual mark, and dated on the fourteenth of the present month, to the order of Mr. Francis Canellas, by whom the notes are endorsed and payable, the one at six months and the other at one year's dates; which notes, after having been signed with a flourish ne varietur by the notary underwritten, have promptly been delivered by him to the said vendors in their quality, who acknowledge it and give discharge; to secure the exact payment of the two notes at their expiration, the said purchaser assigns and mortgages the above mentioned ground by him presently acquired, till the entire payment thereof. In consideration of the above, and that the two notes be paid at their expiration, the said syndics, and in their quality, have given up and transferred to the said purchaser all the rights of property which Mr. Bierra or his creditors have or may have upon the said ground, to the end that the said purchaser, who acknowledges himself in good and legal possession since the day of the adjudication, may possess, exercise, and dispose of it, in all propriety, in consequence of the present act. Because such, &c., engaging, &c., obliging, &c., renouncing, &c., a deed of which has been made and passed at New Orleans, in the study, the nine-

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teenth of August, of the year one thousand eight hundred and twenty-three, and the forty-eighth of the independence of America, in the presence of MM. William Boswell and Benoit Pignan, witnesses requested purposely, known and domiciliated in this city, who, after the reading done, have signed with the gentlemen vendors, and the notary under written, for the purchaser, who has made the declaration that he could not comply to this request in conformity of the law, and has made his usual mark.

(Signed) Usual mark ⋈ of Mr. RAYMOND MANSANA,
G. DUHART,
JACQUES ZINO,
B. PIGNAN,
M. BOSWELL,
C. POLLOCK, *Public Notary.*

For a true copy, in conformity with the first draught of act, New Orleans, the seventh of May, 1842.

Printed record, page 225.

STATE OF LOUISIANA,
Parish of Orleans.

In the year one thousand eight hundred and thirty-six, the twenty-fourth of February, before Louis Feraud, public notary for the parish and city of New Orleans, residing there, and in the presence of witnesses afterwards named and under written, was present Mons. Raymond Mansana, domiciliated in this city, who has by the present sold, given up, and transferred, with cession and substitution of all rights and actions against all former sellers, and with security against all trouble, donations, debts, mortgages, dispossessions, transfers, and all other hindrances whatever, to Mons. Elie Victor Jourdain, domiciliated in this city, here present and accepting, purchaser for himself, his heirs, or those having any rights on his estate, a ground situated at the suburb St. Mary, near this city, forming the corner of the streets Poydras and Phillippa, called Fortier, having, French measure, eighty-nine feet nine inches facing the Poydras street, and sixty feet facing the Phillippa street, together with the buildings, appurtenances, and dependencies, without excepting or reserving any thereof, and the whole well known to the purchaser, who states that he has seen and visited the same, and that he is satisfied with it.

The estate now sold belongs to the seller through the means of acquisition, which he has made of it from Mons. Louis Duhart and Jacques Zino, of this city, syndics of the creditors of Mr. Louis Bierra, according to a deed past before Carlile Pollock, public notary in this city, the nineteenth of August, one thousand eight hundred and twenty-three, to which he is referred for more ample information.

According to the certificate of the keeper of mortgages of this city, dated from this day, it appears that there are no mortgages recorded, in the name of the seller, upon the ground and on the buildings which forms the object of the present sale.

The present sale is made for the price of six thousand dollars, which the seller acknowledges to have received, at this present moment, in current money, counted and delivered in sight of the notary and the witnesses under written, of the said purchaser, good receipt.

By the means of which the seller transfers to the purchaser all rights of property, and other, that he has or can have upon the property which makes the object of the present sale, dispossessing himself of it for the benefit of the purchaser, so that he can make and dispose of the said property in full propriety, from now on till ever, by him, his heirs, or those having any right thereon, in consequence and at the terms of the present act.

Of which act is made and past at New Orleans, in the study, the day, month, and year as above, in presence of MM. Justin Casbergue and Charles Victor Foulon, both domiciliated in this city, witnesses, who have signed with the notary and purchaser; in regard of the seller, he has declared that he could neither write nor sign, but he has made his usual mark after reading having been done.

(Signed) E. V. JOURDAIN,
Usual mark × of RAYMOND MANSANA,
J. CASBERGUE,
FOULON,
FERAUD, *Public notary.*

For a true copie in conformity with the first draught.
FERAUD, *Pub. Notary.*

I, the undersigned, comptroller of transfers, do certify, that the act mentioned above has this day been duly recorded in my office, book No. 40, page No. 36. New Orleans, the twenty-fifth of February, 1836.
GEYNET, *Register.*

STATE OF LOUISIANA, *Parish of Orleans.*

In the year one thousand eight hundred and thirty-six, on the third of May, before Louis Feraud, public notary for the parish and city of New Orleans, and in the presence of witnesses hereafter named and under written, was present Mr. Elie Victor Jourdain, domiciliated in this city, who has by the present deed, sold, given up, and transferred, with cession and subrogation of all rights and actions against all former sellers, and with security against all troubles, donations, debts, mortgages, dispossessions, transfers, and other hindrances whatever, arising from his acts and promises only, to the company of the Grove road from New Orleans to Carrolton, which has been accepted for the said company by Mr. Dominique François Burthe, its president, acting in execution of a resolution of the directors of the said company, passed in their sitting of the a ground situated at the suburb Ste. Mary, near this city, forming the corner of the streets Poydras and Philippa, called Fortier, and having, French measure, eighty-nine feet nine inches

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facing the street Poydras, and sixty feet facing the street Philippa, together with the buildings, appurtenances, and dependencies, without excepting or reserving any thereof; the property presently sold belongs to the seller by the means of the acquisition which he has made of it from Mr. Raymond Mansana, domiciliated in this city, according to a deed past before the notary undersigned, the twenty-fourth February last, to which the parties have declared to refer themselves for more ample information; according to the certificate of the keeper of the mortgages of this city, and dated this day, it appears that there is no mortgages recorded against the seller upon the grounds and buildings which are the objects of the present sale.

The present sale is made for the price of six thousand dollars, which the seller acknowledges to have received at the present instant from Mr. Burthe, paying in the name and with the funds of the said company in current money in sight of the notary and the under written witnesses, and for which receipt is given; through the means of which he transfers to the said company all right of property, and other that he has or can have upon the property which makes the object of the present sale, dispossessing himself of it for the benefit of the said company, to dispose of the said grounds and buildings in full propriety from now till ever for her, her heirs, or those having any right thereon, in consequence and at the terms of the present act.

Of which act is made and passed at New Orleans, in the study, the days, months, and year as above, in presence of MM. Justin Casbergue and Charles Victor Coulon, witnesses requested and domiciliated in this city, who have signed with the said notary and the parties, after reading having been done.

Signed, E. V. JOURDAIN,
BURTHE,
Presid't cie. of New Orleans.

J. CASBERGUE,
FOULON,
FERAUD, *Not. pub.*

For a true copy in conformity with the first draught.
FERAUD, *Not. pub.*

I, the undersigned, comptroller of transfer, do certify, that the present act has this day been recorded in my office, on the book No. 20, folio 499.

NEW ORLEANS, *July 15th*, 1836.

GEYNET, *Register.*

STATE OF LOUISIANA, *parish of Orleans.*

In the year one thousand eight hundred and thirty-six, on the twenty-seventh day of May, before Louis Feraud, public notary for the parish and city of New Orleans, and in the presence of the wit-

nesses hereafter named and under written, was present Mr. John Hiddleston, domiciliated in this city, who has by the present deed sold, given up, and transferred with session and subrogation of all right and actions against all former sellers, and with security against all troubles, donations, debts, mortgages, transfers, dispossessions, and other hindrances whatever, arising from his acts and promises only, to the company of the Grove road, from New Orleans to Carrollton, which is accepted for the said company by Mr. Dominique François Burthe, its president, acting in execution of a resolution of the directors of the said company, passed at their sitting of the twenty-third of February last, a ground situated at the suburb Ste. Mary, of this city, designated by the number two upon the figurative plan of eleven grounds drawn up by Joseph Pilié, overseer of this city, the fifteenth December, one thousand eight hundred and twenty, and deposited in the office of Savinien Blanc, then notary in this city; the said ground forming the corner of the streets Poydras and Circus, and measuring at the French foot, sixty feet facing the said street Circus, and eighty-nine feet nine inches deep, and facing the said street Poydras, limited on one side by the ground number four, and in depth by the number one; together with all the buildings existing upon the said ground, appurtenances, and dependencies, without any exception or reserve.

The seller and owner of the said grounds and buildings, by the means of acquisition which he has made of it from Azelie Lavigne, f. c. l., domiciliated in this city according to a deed passed before the notary undersigned, the twenty-ninth February last, to which the parties have declared to refer themselves for more ample information.

The present sale is made for the price of fourteen thousand dollars, in deduction of which the seller acknowledges to have received in current money of Mr. Burthe, paying in the name and with the funds of the said company the sum of seven thousand dollars, for which receipt is given. In regard to the payment of the remainder, amounting likewise to the sum of seven thousand dollars, Mr. Burthe, in his said quality, binds the company which he represents to pay it in favor of Mr. Hiddleston, by paying and withdrawing at their respective expiration the six notes, each one of the sum of eleven hundred and sixty-six dollars and sixty-six cents and two-thirds, by him subscribed at the date of the twenty-ninth of February last, to the order of Mr. John Nicholson, who has endorsed them at six, twelve, eighteen, twenty-four, thirty, and thirty-six months of date; which notes have been supplied by the said Mr. Hiddleston to the said Azelie Lavigne, the seller, and in payment for the whole of the price of the sale resulting from the act mentioned above, from the twenty-ninth of February last.

The present sale is, at the same time, made to oblige the same company, as well as Mr. Burthe, who in his quality is obliged by the present act to execute the lease, made by the said Azelie Lavigne, for two years, to begin on the first of April last. of the house and buildings forming the corner of the said streets Poydras and Circus ; and that in such a manner that Mr. Hiddleston shall never be disturbed,

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prosecuted, nor be inquired about the subject. According to the certificate of the keeper of the mortgages of this city, and dated of this day, it appears that there is no other mortgage against the seller, upon the grounds and buildings presently sold, than that which he has consented by the act of sale made in favor of the said Azelie Lavigne, the seller, in security of the sum of seven thousand dollars, and from which mortgage Mr. Burthe, in the said name, takes the reversion in full, through the means of which the seller transfers to the said company all right of property and other that he has, or can have, upon the grounds and buildings, which makes the object of the present sale, dispossessing himself of it for the benefit of the said company to dispose of the said grounds and buildings in full propriety, from now on till ever, by her heirs, or those having any right thereon, in consequence and at the terms of the present act.

Which act is made and past at New Orleans, in the study, the day, month, and year as above, in the presence of MM. Charles Victor Foulon and Armand Grillou, witnesses requested and domiciliated in this city, who have signed with the said notary and the parties, after reading having been done.

(Signed) J. HIDDLESTON,
BURTHE,
Presid't cie. of N. Orl. et Carrolton,
FOULON,
ARMAND GRILLOU,
FERAUD, *Pub. Not.*

For true copy in conformity with the first draught, (erased three words, null.)

FERAUD, *Not. Pub.*

STATE OF LOUISIANA,
Parish of Orleans.

In the year one thousand eight hundred and thirty-six, the twenty-ninth of February, before Louis Feraud, public notary, and in the presence of the witnesses hereafter named and underwritten, was presented Azelie Lavigne, f. c. l., domiciliated in this city; who has, by the present deed, sold, given up, and transferred, with cession and subrogation of all right and actions against all former sellers, and with security against all troubles, donations, transfer debts, mortgages, dispossessions, and other hindrances whatever, to Mr. John Hiddleston, domiciliated in this city, here present, accepting, purchaser for him, his heirs, or those having any rights on his estates, a ground situated at the suburb St. Mary, of this city, designated by the No. two upon the figurative plan of the eleven grounds drawn up by Joseph Pilie, overseer of this city, the fifteenth of December, one thousand eight hundred and twenty, and deposited in the study of Savinien Blanc, then notary in this city.

The said ground forming the corner of the streets Poydras and Circus, measuring, by the French foot, sixty feet, facing to the said Circus street, and eighty feet nine inches of depth, and facing the said street Poydras, limited on one side by the ground No. four, and in depth by the No. one, together with all the buildings existing upon the said ground, appurtenances, and dependencies, without any exception or reserve; the whole well known to the purchaser, who is satisfied therewith. The said ground belongs to the seller, through the means of acquisition which she has made of it from the succession of Daniel Clark, according to a deed passed before the said Savinien Blanc, then notary in this city, the twenty-eighth of December, one thousand eight hundred and twenty, to which the parties have declared themselves willing to refer.

According to the certificate of the keeper of mortgages of this city, dated of this day, it appears that there is no mortgages recorded against the seller upon the property presently sold. The present sale is made for the price of fourteen thousand dollars; in deduction of which the seller acknowledges to have received, in this instance, from the purchaser in current money, counted and delivered in sight of the notary, and of the underwritten witnesses, the sum of seven thousand dollars, for which receipt is given. In regard to the payment of the remainder, amounting likewise to the sum of seven thousand dollars, the purchaser binds himself to pay in six, twelve, eighteen, twenty-four, thirty, and thirty-six months from the date of the present time; for that purpose he has supplied, in this present instance, six notes by him subscribed, and from this day's date, to the order of Mr. John Nicholson, who has endorsed them, each of his notes, for the sum of eleven hundred sixty-six dollars and sixty-six and two-thirds cents, and payable at six, twelve, eighteen, twenty-four, thirty, and thirty-six months date; which notes have been signed ne varietur by the undersigned, notary, for the purpose to identify them with the present deed, and handed over by him to the seller, who does hereby acknowledge it; the property presently sold being and remaining mortgaged, specially and through privilege, till the entire payment of the said notes in favor of all holders of them. The present sale is, at the same time, made to oblige the said purchaser, who is obliged by this indenture to execute the lease made by the seller of the house, forming the corners of the said streets, for two years, to begin from the 1st of April next; through the means of which the seller transfers to the purchaser all rights of property, and other which she has and can have upon the property forming the object of the present sale, dispossessing herself of it, so that the said purchaser can make and dispose of the said grounds and buildings in full propriety, from now on till ever, by him, his heirs, and those concerned in consequence, and at the terms of the present act.

Of which act is made and passed at New Orleans, in the study, the days, month, and year as above, in the presence of MM. Justin Casbergue and Charles Victor Foulon, witnesses, requested and both domiciliated in this city, who have signed with the said notary and the

purchaser. In regard of the seller, she has declared that she could neither write or sign, but she has made her usual mark after reading having been done.

Signed, T. HIDDLESTON,
Usual mark ⋈ of AZELIE LAVIGNE, f. c. l.,
FOULON,
J. CASBERGUE,
FERAUD, *Pub. Not.*

A true copy in conformity with the first draught.

FERAUD, *Pub. Not.*

I, the undersigned, comptroller of transfers, do certify, that the present act of sale has this day been duly recorded in my office, in the book No. 20, folio 110.

New Orleans, twenty-fourth of March, one thousand eight hundred and thirty-six.

GEYNET, *Register.*

Printed record, page 250.

This day, the eighteenth of May, one thousand eight hundred and forty-nine, the seventy-third year of American independence, at 10 o'clock, a. m., in virtue of a rule taken in the second district court for the city of New Orleans, the third of May, and rendered absolute the ninth of May, one thousand eight hundred and forty-nine, in the affair of Benjamin Rodriguez vs. Jean Jacques Jandot, which rule is conceived in the following terms, to wit:

* * * * * * * * *

And a copy duly certified with the said rule remains annexed to these presents for reference.

I, Joseph Lisbony, notary public, commissioned for the city and parish of New Orleans, State of Louisiana, there residing, after notices served upon the said Benjamin Rodriguez and Jean Jacques Jandot three days before this date, that is to say, the 14th May, 1849, giving notice to said Rodriguez and Jandot, that the partition mentioned in the above mentioned rule would be made before me this day at this hour, and notifying them to assist there; which notices have been served as follows, on Mr. Rodriguez at his domicil, and on Mr. Jandot personally; have proceeded in consequence to the partitioning of a lot of ground situated in the faubourg St. Mary of this city, in the square comprised between Circus, Phillipa, Poydras, and Perdido streets, measuring in American feet thirty-five feet eleven inches on said Circus street, by ninety-five feet eight inches in depth between parallel lines, belong to the said Rodriguez and Jandot, each in the proportion of an undivided half, having purchased it from the succession of John Mortimer by act bearing date the twenty-fourth of March, one thousand eight hundred and forty-eight, in the care of William Christy, notary. A plan of the above mentioned lot of ground has been previously drawn

up by A. Castaing, surveyor, the 14th May, 1849, to serve in the present partition, and which is hereto annexed for reference; which plan has been designed after a plan made by L. Surgi, surveyor, April 12, 1848.

According to the plan of subdivision made by Castaing, the above mentioned lot of ground is divided into two equal portions, marked A and B, each of the said portions measuring (American measure) seventeen feet eleven inches and four lines, fronting on Circus street, by ninety-five feet eight inches in depth between parallel lines; the portion marked A being nearer Poydras street, and the portion marked B being nearer Perdido street. Upon which I, the undersigned notary, have proceeded in the above mentioned partition, in presence of the said Jean Jacques Jandot, domiciliated in this city, and in presence of Mr. Charles Victor Foulon, domiciliated in this city, appointed by me, notary, to represent at the present partition, the said Benjamin Rodriguez, the said Rodriguez not having appeared, although duly notified by me, notary, as is above mentioned; and in presence of the said Jandot and Foulon, and of the witnesses hereafter named and undersigned, I have made two bulletins, on the one of which I have written the letter A, and I have written on the other the letter B; the said letters A and B being the letters by which are designated the two lots of ground that are to be partitioned between the said Rodriguez and Jandot, according to the plan of subdivision hereafter mentioned.

The said two bulletins, A and B, were placed by me in a hat, to be drawn by lottery; the bulletin A being the representative of the lot designated by the said letter A, and the bulletin B the representative of the lot designated by the said letter B, on the above mentioned plan of subdivision of the entire lot, drawn by A. Castaing. And after having balloted the two said bulletins in the said hat, in presence of witnesses, I presented the said hat to the said Foulon, who took from it a bulletin, which being opened by me, notary, was found to be that bearing the letter A. Consequently, in virtue of the present partition and drawal by lottery, the said Benjamin Rodriguez shall be, from this day, exclusive proprietor of the said lot of ground bearing the letter A; and the other lot of ground, designated by the letter B, shall belong exclusively to the said Jean Jacques Jandot.

Which act made and recorded in New Orleans, the day, month, and year above mentioned, in presence of Messrs. Quemper and Alexander Castaing, witnesses, summoned and domiciliated in this city, who have signed, with the said Jandot and Foulon, and myself, notary, after reading made.

(Signed) J. J. JANDOT,
FOULON,
A. CASTAING,
LEWIS QUEMPER.
JH. LISBONY, *Not. pub.*

A true copy of the original. New Orleans, June 18, 1849.
JH. LISBONY, *Not. pub.*

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Exhibits filed with answer of J. Cole.—Record, page 252.

Before Savinien Blanc, notary public, commissioned for the city and parish of New Orleans, in the State of Louisiana, residing there, and in presence of the undersigned witnesses, personally appeared Richard Relf and Beverly Chew, proprietors, residing in this city, stipulating by these presents in their capacities as testamentary executors of the late Daniel Clark, and moreover as empowered with general and special powers of attorney from Mary Clark, widow, residing at Germantown, in the State of Pennsylvania, mother and only heir of the said Daniel Clark, agreeably to a power of attorney, under private signature, bearing date October second, 1813, deposited in the office of the late John Lynd, of his living notary, by an act passed before him, bearing date 22d April, 1817.

The said persons have declared and said, that in consequence of a public sale that they caused to be made on the nineteenth of December last, by the agent of Mr. Toussaint Mossy, public auctioneer in this city, of lands that compose the succession of Daniel Clark, they sell, cede, and convey, moreover, by these presents, now and forever, with promise in their quality and in the name in which they act, of guaranteeing from all troubles, evictions, and all hindrances whatsoever, as well as against all debts and hypothecations, as is verified by the certificate of the recorder in this city, bearing date the twenty-seventh of December last, here shown to Mr. Leon Courcelle, residing in this city, the highest bidder here present, who accepts and purchases for himself, his heirs and assigns, a lot of ground situated in the faubourg St. Mary, designated by the number four on the figurative plan of a portion of the land A, B, C, D, E, F, and A, situated in the said faubourg St. Mary, between Circus and Pigeonnier streets, the property of Vincent Rillieux, Phillippa and Poydras streets, designed by Mr. Joseph Pilié, surveyor of this city, bearing date 15th December, 1820; which plan has been deposited in my office by the said vendors, in their quality, agreeably to an act passed before me, bearing date the twenty-seventh of the said month. The said lot fronting sixty feet on Circus street, by eighty-nine feet nine inches deep; bounded on one side by the lot designated by number two, and on the other by that designated as number six, and behind by lot number three; such as the lot stands and appears, without excepting or reserving anything; the said purchaser declaring that he is perfectly acquainted with the said property, is satisfied with it, and requires no further description of it.

The lot now sold is a part of the succession of the said Daniel Clark, having been purchased by him, with a large extent of land, from the late G. T. Ross, agreeably to an act passed before the late Pierre Pedesclaux, when being notary, bearing date 20th August, 1807.

The present sale is made for and in consideration of the sum of three hundred and fifty dollars, which the said purchaser has paid in cash (not in view of the undersigned witnesses and notary) to the said vendors, who acknowledge it, and by these presents grant quittance and

discharge to the said purchaser, with renunciation of the law non numerata pecunia, and all others relative.

In consideration of the preceding the said vendors, in their quality, and in the name in which they act, convey to the said purchaser all the rights of property that the succession of the said Daniel Clark had or can have to the lot now sold, that the said purchaser, who, since the day of the said adjudication, acknowledges himself to be in good and due possession, may enjoy, do, or dispose of it at his pleasure, as a property legitimately belonging to him by virtue of these presents.

Which act done and passed in New Orleans, in my office, the 19th January, 1821, in presence of Messrs. Hugh K. Gordon and Lewis M. Taney, witnesses domiciliated, who have signed with the undersigned contracting parties, and with the notary, after reading made.

Signed, RICHARD RELF,
BEVERLY CHEW,
L. COURCELLE,
L. M. TANEY,
HUGH K. GORDON,
SAVINIEN BLANC,
Not. Pub.

A true copy of the original.

THEO. GUYOL, *Not. Pub.*

Exhibits filed with answer of Municipality No. 1 *of the city of New Orleans.—Printed Record, page* 275.

Before me, Philippe Pedesclaux, notary public in and for the parish of New Orleans, and in presence of the undersigned witnesses, personally appeared Richard Relf and Beverly Chew, residing in this city, in the name and as invested with a general and special power of attorney from Madame Mary Clark, a citizen of Germantown, in the State of Pennsylvania, mother and only heir of the late Daniel Clark, by an act under private signature, bearing date October 2d, one thousand eight hundred and thirteen, deposited for reference in the office of the late John Lynd, while living, notary in this city, the twenty-second of April, one thousand eight hundred and seventeen; who appearing, in their own names, and by these presents, have sold, granted, and conveyed, with warranty against all troubles, gifts, debts, hypothecations, evictions, alienations, and other hindrances whatsoever, to Evariste Blanc, residing on the bayou St. John, here present and accepting as purchaser for himself, his heirs, and assigns, a portion of ground situated on the bayou St. John, containing about a hundred and thirty-five superficial arpens, extending to the road of the canal Carondelet; to the lands of Mr. M. Cauchoix; to Broad Street; to Bellechasse street, in the faubourg St. John; to the lands of the widow Hersey; and to those of the purchaser, and to the bayou St. John; conforming to a figurative plan made by Joseph Pilié, surveyor of this city, the 20th of August, one thousand eight hundred and one, which after having

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been signed and paraphed by the witnesses, remains here annexed, and on which the said portion of land is comprised between the letters B, C, D, E, F, G, H, I, K, L, B; to be enjoyed or disposed of by the purchaser now and hereafter as property appertaining to him.

This portion of land is free of hypothecations upon the succession of Daniel Clark and Mary Clark, his mother and only heir, as will be seen from the certificate of the recorder of mortgages, bearing date the twenty-fourth of the present month, good for this day; and is a part of those lands that the said Daniel Clark bought of Nicolas Maria Vidal, former auditor of war, and lieutenant to the Spanish governor of the province of Louisiana, by an act passed before Carlos Ximenes, then a notary in this city, the twenty-fourth day of July, one thousand eight hundred and four.

The present sale is made in consequence of a public sale made by Mr. Toussaint Mossy, auctioneer of this city, at the instance of Messrs. Chew & Relf, on the twenty-first of December last, for and in consideration of the sum of four thousand seven hundred and sixty dollars, for which the said portion of land has been adjudged to the said Blanc, who conforming to the conditions of said public sale, has at this time given to Messrs. Chew and Relf, who acknowledge it, and of it grant a discharge; his three notes of one thousand five hundred and eighty-six dollars sixty-six cents and two-thirds, which have been signed and countersigned "ne varietur," by the undesigned notary, to identify them with the present. As a surety for the payment of these three notes, the said portion of land remains affected, obliged, and hypothecated, by special expressed permission, reserved to the vendress; under the resumé of this privilege, the said Relf and Chew, in their own names, place him in, and invest the said purchaser with, all the rights of property that the said Mary Clark had, or could have had, in the said portion of land agreeing that he shall be seized and put in possession of it.

This act made and passed in my office in New Orleans, the thirtieth of the month of October, in the year one thousand eight hundred and twenty-one, in the presence of Michael Fourcisy and J. B. F. Pedesclaux, witnesses, and residents of this city, who, together with the parties and the notary, have affixed their signatures.

RICHARD RELF,
BEV. CHEW,
EVARISTE BLANC,
FOURCISY,
J. B. F. PEDESCLAUX,
PHIL. PEDESCLAUX,
Notary public.

A copy, conforming to the original, remains in my office for reference; in faith of which I have affixed my seal of office at New Orleans, this fifth day of March, one thousand eight hundred and twenty-two.

PHI. PEDESCLAUX, *Notary public.*

I, the undersigned Lucien Hermann, notary public, duly commissioned for the parish of New Orleans, certify, that the preceding is a faithful copy of a copy of act annexed for reference to an act passed before the late Felix de Armas, my predecessor, the 26th September, 1834. In faith of which I have delivered the present, signed with my hand, and sealed with the seal of my office at New Orleans, this 26th May, 1849.

L. HERMANN, *Not. Pub.*

(*Marginal note.*)

The purchaser will have the right to divide and drain the portion of land mentioned in the acts of sale, upon the canal Carondelet, commonly called the Navigation canal, of navigating the said canal for the purpose of carrying the products of said portion of land into the city, in the same manner that the deceased Daniel Clark had that right, in virtue of an act made between divers persons and the Navigation company of New Orleans, before Etienne de Quinones, deceased, of his living notary in this city, the eighth of July, one thousand eight hundred and eleven.

(Signed) RICHARD RELF,
BEV. CHEW,
EVARISTE BLANC,
PHI. P, *Notary public.*

In the city of New Orleans, State of Louisiana, this 26th September, one thousand eight hundred and thirty-four, and the fifty-ninth year of American independence, before Felix de Armas, notary public, duly commissioned for the city and parish of New Orleans, there residing, and in presence of the undersigned witnesses, personally appeared Evariste Blanc, a resident of this parish, on the bayou St. John, on the one part, and the honorable Dennis Prieur, mayor of the city of New Orleans, and in that quality acting in the name of the corporation of the mayor, aldermen, and citizens of this city, in virtue of two resolutions of the city council, of which certified copies are here annexed, the first of the thirtieth of July last, and approved the second of August; and the second of the thirteenth of September current, and approved the fifteenth of the same month, on the other part; who have acknowledged that, on the twelfth of July last, the said Evariste Blanc wrote a letter to the president and members of the city council, offering to sell to the said corporation his property on the bayou St. John, where he resides, containing about two hundred and forty superficial arpens, the original of which letter is here annexed for reference; that by the said first resolution the said honorable mayor was authorized to contract with the said Evariste Blanc for the acquisition of the land that he offers to sell, provided that the price does not exceed the sum of fifty thousand dollars, payable in the obligations of the corporation in thirty years from date, with interest at five per cent.

per annum; that on the ninth of August last, the said honorable mayor informed the council that he had concluded with Mr. Evariste Blanc in purchasing the property offered by the latter for the sum of forty-five thousand dollars, payable in thirty years in obligations of the corporation, bearing an annual interest of five per cent., the said interest payable every six months; that at a sitting of the said council on the thirteenth of September current, the said council unanimously resolved that the above mentioned acquisition, of which the mayor, at the sitting on the ninth of August, gave notice to the council, that is to say, conforming to the authorization bestowed upon him, he had concluded with Mr. Blanc in purchasing the property offered by him in his letter of the twelfth of July last for the sum of forty-five thousand dollars, payable in thirty years in obligations of the corporation, bearing an annual interest of five per cent., the said interests payable every six months, is and remains approved, as well as the result of the said resolution of the thirteenth of September current. And in execution of the above, the said Evariste Blanc has, by these presents, sold, ceded, and conveyed, from the said day, the ninth of August last, and forever, all his warranty of right to the said corporation of mayor, aldermen, and inhabitants of this city of New Orleans, represented by the said honorable mayor, who acts in virtue of the above resolutions, a lot and dwelling situated in this parish of Orleans, of irregular form, having about eleven arpens fronting on the bayou St. John, and bounded by the said bayou, the canal Carondelet, the road called the Bayou road, and D'Orgenoy street, which land is in total about two hundred and forty superficial arpens, together with all the buildings, circumstances, and dependencies of the said land, without excepting or reserving any thing.

The said Evariste Blanc declares that his right of property to the said dwelling is established as follows, to wit: By an act of the eighth of February, one thousand seven hundred and ninety-eight, before Francis Brontin, then a notary in this city, Mr. Louis A. Blanc bought of Mr. Andres Almonaster y Roxas, a certain quantity of land, of which portion of the land the object of these presents made a part.

By an act of the thirteenth of April, one thousand eight hundred and sixteen, before Narcisse Brontin, then a notary in this city, the said Evariste Blanc bought of the said L. A. Blanc, a portion of the land acquired by this last as also by the former. By an act of the first of May, one thousand eight hundred and sixteen, before G. R. Stringer, then a notary in this city, the said Evariste Blanc sold to Mrs. Catharine Foster, wife of James Hersy, a portion of land purchashed by the said Evariste Blanc of Mr. L. A. Blanc; but by act of the first of May, one thousand eight hundred and twenty-five, before H. K. Gordon, then a notary in this city, the said Hersy resold to the said Evariste Blanc the portion of land he had sold to him. Mr. Nicholas Maria Vidal bought of Mr. L. A. Blanc a portion of the land that the latter had from Mr. Andres Almonaster y Roxas, and obtained the twenty-sixth of March, one thousand eight hundred, from the

Spanish Government the concession of another portion of land adjoining that, also purchased of Mr. L. A. Banc. By an act of the twenty-fourth of July, one thousand eight hundred and four, before Pre. Pedesclaux, then a notary in this city, the said N. Maria Vidal sold to Mr. Daniel Clark part of the land that belonged to him from the purchase from Mr. L. A. Blanc and from the Spanish concession. And by an act of the thirtieth of October, one thousand eight hundred and one, before Ph'pe Pedesclaux, then a notary in this city, the said testamentary executors of the said Daniel Clark sold to the said Evariste Blanc a part of the land that the said Daniel Clark had purchased from Mr. Vidal, and, in confirmation of the said declarations, they remit to the undersigned notary certified copies of the above mentioned acts, from the original of the said Spanish concession, as well as a plan prepared by Mr. Charles Laveau Trudeau, the thirty-first of March, eighteen hundred; which documents, at the demand of the parties to the present, are hereto annexed for reference.

The present sale has been, and is now, made for and in consideration of the sum of forty-five hundred dollars, which the honorable mayor obliges the corporation to pay to the said Evariste Blanc, his heirs and assigns, in thirty years, counting from the 15th of September current, with interest on the principal at five per cent. per annum, payable semi-annually to all the holders of the obligations hereafter, or in proportion to the amount of the said obligations. And in order to facilitate the said Evariste Blanc in the negotiation of the said letters of credit, and also of others that have been granted to him, there is now furnished to the said Evariste Blanc, who acknowledges it, and of it gives receipt, forty-five obligations of the sum of one thousand dollars each, dated the 15th September current, signed by the said honorable mayor, and countersigned by Mr. John Culbertson, recorder, and by Mr. J. M. Fleytas, treasurer; on the margin of which obligations are the coupons, payable, as is after mentioned, signed under the initial letters of the said treasurer, which obligations, numbered from one to forty-five inclusive, the said vendor receives as a settlement, without reserve of privilege or hypothecation on the property now sold.

The certificate of the recorder of mortgages in this city, bearing date of this day, and here annexed, shows that there is no mortgage upon the above mentioned property against the said vendor; the vendor conveys to the said corporation all his rights to the said property, all the rights that he holds from his authors and preceding vendors of the same property, whatever may be his rights, warranty, or otherwise, placing, and installing it in his stead and place, by reason here accepted by the honorable mayor, who acknowledges the taking possession of the said property.

At the same time appeared Madame Fanny Labatut, wife of the said Evariste Blanc, and by her said husband duly assisted and authorized to the effect and for the full validity of these presents, who, after reading being made to her by the undersigned notary of the preceding act, has declared that she approves it in all its contents; and having, be-

sides, declared to the undersigned notary that it was her intention to renounce all the hypothecation, privileges, and other rights that she has or can have to the said land or habitation, the said notary has informed her that, according to the laws of this State, the wife has a tacit mortgage upon the immoveable effects of her husband:

I. For the restitution of her dowry, or on account of the dispensation of her dotal effects that she brought at the time of her marriage, and this to count from the day of the celebration of said marriage.

II. For the restitution or for the dispensation of effects, dowry to which she would have acquired during marriage, whether by succession or donation, and that from the day the succession shall be opened in her favor, or from the day that the donation took effect.

III. For the payment of the debts that she may have contracted with her husband as well as for the repayment of her own effects, alienated from the day of the obligation, or from that of sale.

IV. For security of the obligations imposed on the husband in case where he may have enjoyed the paraphernal effects of his wife, or for the reimbursement of their price in the case where they may have been alienated by the wife with his consent, and he received the money, or was otherwise profited by it.

And the said Madame Blanc, acknowledging herself to be perfectly instructed in the rights that the law accords to her on the effects of her husband, said and declared that she persists, notwithstanding, in the intention that she has heretofore manifested, and that of her own full will and of her own wish she formally renounces by these presents, as well for herself as for her heirs and assigns, every hypothecation, legal or tacit, that the laws give her, or can give to her, on the land or dwelling that is the object of these presents, whether these rights may have inured to her by title or dowry, or from paraphernal effects; and that she cedes and conveys to the corporation, of the mayor, aldermen, and citizens of the city of New Orleans, or its assigns, all the above mentioned rights and others, whatever they may be, installing the said corporation in her stead and place by reason of them, and authorizing it to prevail against herself as much in justice as out of it. This accepted by the said honorable mayor and ———

Done and passed in my office the day and month aforesaid, in presence of Messrs. Alphonse Morel and Amedée Ducatel, competent witnesses, who, in common with the parties and notary, have affixed their signatures after reading made.

(Signed) EVARISTE BLANC,
LABATUT BLANC,
D. PRIEUR, *Mayor*.

Approved: G. EUSTIS,
AMEDEE DUCATEL,
A. MOREL.

FELIX DE ARMAS,
Not. Pub.

I, the undersigned, Lucien Harmann, notary public, duly commissioned for the parish of Orleans, certify, that the preceding is a faithful copy of the original act deposited for reference in the archives of the late Felix de Armas, notary in this city, and of which I, his successor, am the depository. In faith of which I have delivered the present, signed by my hand and sealed with the seal of my office, in New Orleans, this twenty-sixth day of May, one thousand eight hundred and forty-nine.

L. HERMANN, *Not. Pub.*

Before Savinien Blanc, public notary, duly commissioned for the city and parish of New Orleans, second senatorial district of the State of Louisiana, domiciliated there, and in the presence of the witnesses hereinafter named and underwritten, were presented MM. Richard Relf and Beverly Chew, proprietors, domiciliated in this city, stipulating in this instance, in their quality as executors of the will of the late Mr. Daniel Clark, and in addition acting as the legal holders of general and special powers of attorney for the widow, Mrs. Mary Clark, residing in Germantown, in the State of Pennsylvania, mother and only and sole heiress of the said Daniel Clark, according to a power of attorney under private seal, dated on the second October, one thousand eight hundred and thirteen, duly recorded in the office of the late Mr. John Lynch, notary of this city, by an act dated of the twenty second April, one thousand eight hundred and seventeen. The said gentlemen appearing, have declared that, in confirmation of the sale which they have made at auction, in their said quality, the nineteenth of the present month, through the agency of Mr. Toussaint Mossy, public auctioneer, in this city, of the estates composing the succession of the said Daniel Clark, they sell, give up, convey, and relinquish, by the present act, from now and forever, with the promise in their quality, and in the same to guarantee against all troubles, dispossessions, and all other impediments whatever, as well as against all debts and mortgages, as it is thus proved by the certificate of the keeper of public documents in this city, of the date of the twenty-seventh of this month, hereby represented, to Azelie Lavigne, free colored woman, domiciliated in this city, purchaser here present, who accepts and who acquires for her, her heirs, or those concerned, a ground situated in the suburb St. Mary, designated by the number two, upon the figurative plan of eleven grounds, drawn up by Joseph Pilié, overseer of this city, dated on the 15th December, of the present year, which plan has been deposited in my office by the said sellers in their quality, according to an act of my report of the date of the twenty-seventh of this month; the said ground forming the corner of the streets Poydras and Circus, having sixty feet facing the street Circus, and eighty feet nine inches of depth (French measure) facing the street Poydras; limited on one side by the ground number four, and in the depth by the ground number one; which ground is a part of the properties forming the succession of Clark, as having been bought by him with a greater

extent of land, of the late George T. Ross, according to a deed to the report of the late Pierre Pedesclaux, who, when living, was notary, dated on the twenty August, one thousand eight hundred and seven.

The present sale is made and agreed upon for and through the means of the sum of six hundred and fifty dollars, which the said purchaser, according to the conditions of the sale, made at auction as stated, promises and obliges herself to pay and acquit, in three equal payments of one, two, and three years from this date; for this purpose she has presented and delivered three notes of two hundred and sixteen dollars and sixty-six cents and two-thirds each, subscribed by Mr. Alexander St. Amand, dated the nineteenth of this present month, (the day of adjudication,) to the order and endorsed by Mr. Carlin, of this city, and payable in one, two, and three years from their respective dates. Which three notes amount together to the said sum of six hundred and fifty dollars, after having signed with a flourish and ne varietur, by the undersigned notary, to identify them with the present deed of sale, have been agreed upon, received, and withdrawn by the gentlemen sellers, who acknowledge it and declare it in their quality by giving a discharge to the said purchaser, under the fact of their payment at their respective expiration; and as security for the payment of the three notes above described, the ground sold in this present deed remains and is specially mortgaged in favor of the succession of the said Mr. Daniel Clarke.

And providing the execution of the conditions explained in the present, the vendors in their quality, and in the name of whom they act, make over to the said purchaser all the rights of property that the succession of the said Mr. Clark has or can have upon the ground presently sold, to the end that the said purchaser who, since the day of said adjudication, acknowledges himself to be in good and legal possession, may possess, exercise, and dispose of it at his will from the day of the said adjudication, as of a property legitimately acquired. Of which act done and past at New Orleans in the study, the twenty-eighth December, one thousand eight hundred and twenty, in the presence of Mr. Hugh K. Gordon, and Mr. Lewis M. Taney, witnesses domiciliated in this city, who have signed with the contracting parties and the undersigned notary, after reading having been done.

The said lady purchaser having been called upon to sign, has declared that she is not able to do so, not knowing how to write, and she has made her usual mark.

(Signed) RICHARD RELF,
BEVERLY CHEW,
Usual mark ⋈ of AZELIE LAVIGNE,
L. M. TANEY,
H. K. GORDON.

I, the undersigned, Felix Grima, public notary, duly commissioned and bound on oath, in and for the city and parish of New Orleans,

certify, that what precedes is a true copy of an act which is to be found in the records of Savinien Blanc, formerly public notary in this city, and of whom I am the successor in office.

In the faith of which I have signed the present, and have affixed the seal of my office, at New Orleans, this seventh day of the month of May, one thousand eight hundred and forty-two.

F. GRIMA, *Public Notary.*

Printed record, page 233.

Exhibits filed with answers of John Minturn, etc.

Before Savinien Blanc, public notary, duly commissioned for the city and parish of New Orleans, in this State of Louisiana, domiciliated in the same, and in the presence of the witnesses hereafter named and under written, have appeared MM. Richard Relf, and Beverly Chew, proprietors, domiciliated in this city, stipulating in this instance in their quality as executors of the will of the late Mr. Daniel Clark, and in addition acting as the legal holders of general and special powers of attorney from the widow, Mrs. Mary Clark, domiciliated in Germantown, in the State of Pennsylvania, mother, and only and sole heiress of the said Daniel Clark, according to records under private seal, dated on the second of October, one thousand eight hundred and thirteen, deposited in the office of the late Mr. John Lynd, who when alive was notary by an act of his report, dated on the twenty-second April, one thousand eight hundred and seventeen.

The said gentlemen appearing have stated and declared, that in consequence of the public sale and at auction, which they have ordered to take place on the nineteenth of December last, through the agency of Mr. Toussaint Mossy, public auctioneer of this city, of the estates composing the succession of the said Mr. Daniel Clark, they sell, convey, transfer, and relinquish by the present, from now on till ever, with promise in their quality, and in the name for whom they act, to guarantee against all trouble, dispossessions, and all other impediments whatever, as well as against all debts and mortgages, as it is thus proved in this instance by the certificate of the keeper of public documents in this city, dated on the twenty-seventh December last, here represented, to Mr. Thos. Bonseigneur, domiciliated in this city, purchaser here present, accepting and acquiring for him, his heirs, and those concerned, four grounds situated at the suburb Ste. Mary, near this city, adjoining each other, designated by the Nos. eight, nine, ten, and eleven, upon the figurative plan of a lot of ground, A, B, C, D, E, F, and A, situated at the suburb Ste. Mary, between the streets Circus, and Pigeonnier, the property of Mr. V. Rilleux, the streets Philippa and Poydras, drawn by Mr. Joseph Pilie, overseer of this city, dated on the fifteenth of December, 1820; which plan has been deposited in my office by the said sellers in their quality, according to a deed to my report, dated on the twenty-seventh of the said month, which four

lots of ground have the following dimensions, namely, the lots number eight and nine, having each sixty feet in front of the Rue du Cirque, on eighty-nine feet nine inches depth, limited on one side by the number six, and on the other side by the number ten, and in the depth by the numbers seven and eleven.

The ground number ten, joining to the number nine, and forming the corner of the streets Circus and Pigeonnier, the said ground is of an irregular form, and having forty-six feet facing the said street Circus; ninety feet nine inches facing that of Pigeonnier; eighty-nine feet nine inches on the side of the number nine, by which he is limited, and thirty-two feet two inches in the direction of the number eleven, by which he is limited in the depth.

The ground number eleven is likewise of an irregular form, limited on one side by the number nine and ten, on the other side by the estate of Vincent Rilleux, and in the depth by part of the ground number seven; having thirty feet one inch facing to the street Pigeonnier; eighty-six feet ten inches on the side of number nine and ten; eighty-two feet three inches on the side of the estate of Vincent Rilleux; and twenty-nine feet nine inches in the direction of number seven; such as the said four lots of ground above described are in condition and demeanor, without reserving or excepting any thereof; the said purchaser declaring that he knows perfectly well the said estates, that he is satisfied therewith, and that he does not wish any more ample description.

The grounds above described form part of the estates composing the succession of the said Mr. Daniel Clark, as having been purchased by him, with a greater extent of land, of Mr. G. T. Ross, deceased, according to an act to the report of the late Pierre Pedesclaux, who was, when living, notary, and dated of the twentieth August, one thousand eight hundred and seven.

The present sale is made and agreed upon for and through the following sums, namely, six hundred and twenty dollars for the two grounds designated under the numbers eight and nine; three hundred dollars for the ground designated under the number ten, and one hundred dollars for that designated under the number eleven; which forms in all a sum of one thousand and twenty dollars, which the said purchaser obliges himself to pay and acquit in three equal terms, in one, two, and three years, to be dated from the day of the adjudication; and to that effect he has presented three notes, by him subscribed, at the date of the nineteenth December last, each one for the sum of three hundred and forty dollars, to the order and endorsed by M. J. B. Destrac Cazenave, of this city, and payable in one year, two, and three years of their respective dates. Which three notes, after having been signed ne varietur, by the undersigned notary, for the purpose to identify them with the present act of sale, have been agreed upon, received, and withdrawn by the gentlemen sellers, who acknowledge this and declare it, in their quality, by giving a discharge to the said purchaser, under the faith of their payment at their respective expiration; and as

security for the payment of the said three notes, amounting together to the said sum of one thousand and twenty dollars, the four lots of ground remain and stay specially assigned and mortgaged, in favor of the succession of the said Daniel Clark.

And providing, the execution of all that precedes, the said gentlemen sellers, in their quality and in the name for whom they act, make over to the said purchaser, all the rights of property that the succession of the said Mr. Daniel Clark has, or can have, upon the property presently sold; to the end that the said purchaser, who, since the day of the adjudication, acknowledges himself to be in good and legal possession, may possess, exercise, and dispose of it at his will, as of a property legitimately appertaining to him, in consequence of the present act.

Done and act passed at New Orleans, in the study, the fifth January, one thousand eight hundred and twenty-one, in the presence of MM. Hugh K. Gordon and Lewis M. Taney, witnesses, who have signed with the contracting parties, and the public notary has subscribed, after reading done.

Signed,

RICHARD RELF,
BEVERLY CHEW,
THOMAS BONSEIGNEUR,
L. M. TANEY,
H. K. GORDON.
SAVINIEN BLANC,
Pub. not.

I, the undersigned, Felix Grima, public notary, duly commissioned, in and for the city and parish of New Orleans, State of Louisiana, and residing in the same, certify, that what precedes is a true copy of an act passed before Savinien Blanc, formerly notary in this city, and of whom I am now the successor in office.

F. GRIMA,
Public notary.

New Orleans, this 30th of December, one thousand eight hundred and forty-four.

Page 240. In the city of New Orleans, in the State of Louisiana, this 28th January, eighteen hundred thirty-four, and in the fifty-eighth year of the independence of the United States of America, before Hugues Pedesclaux, public notary, duly commissioned in and for the city and parish of New Orleans, residing there, and in the presence of the witnesses hereafter named and underwritten, has personally appeared Mr. William Meredith Lambeth, of this city, who has declared that he sells, gives up, conveys, and transfers, as in reality he sells, gives up, conveys, and transfers, by the present, from now on till ever, with promise to guaranty against all trouble, dispossessions, debts, mortgages, and all other impediments whatever, to Madelaine Jourdan, f. c., domiciliated in this city, here present, accepting

and acquiring for herself, her heirs, or those concerned, a ground situated at the suburb Ste. Mary, in this city, designated by the number four, in the plan drawn by Benjamin Buisson, surveyor, dated from the twenty-third February, eighteen hundred thirty-three, annexed to an act to the report of the undersigned notary, dated the fourth of April last, mentioning the sale by the succession of the widow Thomas Bonseigneur to François Layet, which ground measures, with the American foot, twenty-four feet ten inches on Circus street, and ninety-five feet eight inches of depth, together with all the dependencies and ; the said ground belongs to the seller through the means of the acquisition which he has made thereof from the succession of the widow Mrs. Thomas Bonseigneur, according to an act to the report of the undersigned notary, dated from the fourth day of April last; the present sale is made for and by the means of the sum of twelve hundred dollars, in deduction of which the said purchaser, in the presence of the notary, and of the undersigned witnesses, has paid and counted the sum of six hundred dollars to the said Mr. Lambeth, who acknowledges it, and is willing to give good and valuable receipt and discharge; and for the balance remaining, the said purchaser has delivered to the seller, who acknowledges it, a note, of the sum of six hundred dollars, subscribed by Mr. John Fink, from the date of the thirty-first December last, and payable at six months' date, to the order of Mr. Lambeth, which signature is at the back; which note is identified with an act of the thirty-first December last, to the report of William Young Lewis, notary public in this city, by which the said John Fink, for the security of the payment of the note, mortgages a negro woman, called Emily; the said Mr. William M. Lambeth declares that he renounces by the present act all privileges or mortgages which could result from the present act in his favor.

According to the certificate of the keeper of the mortgages of this city at the date of this day, and annexed, it appears that there is no other mortgages recorded in the name of the seller upon the ground which forms the subject of the present, than the one which he has consented, through an act of the fourth April last to the report of the notary underwritten, for security of the sum of nine hundred dollars, the amount of several notes given in payment for the ground described above, and other, which notes the said Mr. Lambeth promises and obliges himself, by the present act, to pay at their expiration, and to cause the above mentioned mortgages to be released.

On condition of the fulfilment of what is mentioned above, the seller gives up and transfers to the purchaser all the rights of property, of guarantee, and other which he has or can have upon the ground which is the object of the present sale, placing and subrogating the said Madeleine Jourdan in all the said rights, so that by this the said purchaser, who acknowledges herself in good and legal possession of the said ground, may possess, exercise, and dispose of it at her will, as of things belonging to her legitimately, in consequence of the present act.

Done and passed at New Orleans, in the study, the same day,

month, and year as above, in the presence of Mr. Felix Perey and Joseph Cuvillier, witnesses, requested and domiciliated in this city, who have signed with the parties and the notary, after reading having been made; the said purchaser having declared that she could not write, has made her mark.

Signed, Usual mark ⋈ of MADELAINE JOURDAN,
WM. M. LAMBETH,
FELIX PEREY,
JH. CUVILLIER,
H. PEDESCLAUX,
Public notary.

I certify, that the present act is in conformity to the original, deposited in the records of Hugues Pedesclaux, then notary in this city, and of whom I am now the successor in office.

In faith whereof I have signed the present, and have impressed my seal of my office, at New Orleans, this twenty-eighth of December, eighteen hundred and forty-four.

THRE. TUREAUD, *Pub. Not.*

To-day, the eighteenth of May, eighteen hundred and forty-nine, the seventy-third of the independence of the United States, at ten in the morning, in consequence of a rule taken in the second court of the district of New Orleans, the third May, and rendered arbitrarily on the ninth May, eighteen hundred and forty-nine, in the case of "Benjamin Rodriguez versus John James Jandot;" which rule is expressed in the following words, namely:

* * * * * * *

And a copy, duly certified, of the said rule remains annexed to the present for redress.

I, Joseph Lisbony, public notary, commissioned for the city and parish of New Orleans, State of Louisiana, and residing there, after notice having been served to the said MM. Benjamin Rodriguez and Jean Jacques Jandot, three full days before this date, namely, on the fourteenth of May, 1849, giving notice to the said Rodriguez and Jandot that the division mentioned in the above mentioned rule should be made before me, this day, at this hour, and notifications to them to be there to assist at the same having been served as follows, to Mr. Rodriguez, at his house, and to Mr. Jandot, personally, have proceded as follows to the division of a ground situated at the suburb St. Mary, of this city, in the island comprised between the streets Circus, Philippa, Poydras, and Perdido, measuring, by the American foot, thirty-five feet eleven inches, fronting said Circus street, on ninety-five feet eight inches of depth between the parallel line, apportioning to the said MM. Rodriguez and Jandot, each one, in the proportion of an indivisible half, for having acquired it from the succession of John Minturn by a deed of the twenty-fourth March, eighteen hundred and forty-eight, to the report of William Christy, notary. There having previously been

drawn by A. Castaing, land surveyor, the fourteenth May, 1849, a plan of the subdivision of the said lot of ground, for the purpose to serve to the present division, and which is hereto annexed for reference; which plan has been drawn from a plan made by L. Surgi, land surveyor, the twelfth April, eighteen hundred and forty-eight.

After the plan of subdivision made by Castaing, the said lot of ground is divided in two equal portions, marked A and B, measuring, each of the said portions, (American measure,) seventeen feet eleven inches and two-thirds, facing the street Circus, on ninety-five feet eight inches of depth, between the parallel line; the portion marked A being the nearest to the street Poydras, and the portion B being the nearest to the street Perdido.

Upon which I, undersigned notary, have proceeded to the said division, in the presence of Mr. Charles Victor Foulon, domiciliated in this city, and Mr. Jean Jacques Jandot, domiciliated in this city, chosen by me to be notary, to be present at the division thereof, the said Benjamin Rodriguez, the said Rodriguez not having made his appearance, although duly notified by me, notary, as it is mentioned above, and in the presence of the said Jandot and Foulon and the witnesses hereafter named and underwritten, I have made two certificates, upon one of which I have written the letter A, and I have written upon the other the letter B, the said letters A and B being the letters by which are designated the two lots of ground which are to be divided between the said MM. Jandot and Rodriguez after the plan of subdivision above mentioned.

The said two certificates A and B have by me been placed in a hat, to be drawn at hazard, the certificate A being the representation of the lot designated by the said letter A, and the certificate B representing the lot designated by the said letter B, upon the said plan of subdivision of the entire lot, drawn by A. Castaing; and after having well ballotted the said two bulletins or certificates in the said hat, and in the presence of witnesses, I have presented the said hat to the said Mr. Foulon, who has extracted therefrom one bulletin or certificate, which having been opened by me, notary, has been found to be the one having the letter A; consequently, by the power of the present division and drawing at hazard, the said Mr. Benjamin Rodriguez will be from this day proprietor exclusively of the said lot of ground having the letter A; and the other lot of ground designated by the letter B appertains exclusively to the said Mr. Jean Jacques Jandot.

Of which act, made and past, at New Orleans, the day, month, and year as above, in the presence of MM. Quemper and Alexander Castaing, witnesses with the said MM. Jandot and Foulon, and me, notary, after reading done.

(Signed) J. J. JANDOT,
FOULON,
A. CASTAING,
LEWIS QUEMPER,
JH. LISBONY,
Public Notary.

For a true copy in conformity with the first draught.

JH. LISBONY,
Public Notary.

Exhibits filed with answer of J. Cole.

Before Savinien Blanc, public notary, duly commissioned for the city and parish of New Orleans, in this State of Louisiana, and residing there, and in the presence of the witnesses hereafter named and underwritten, have appeared MM. Richard Relf and Beverly Chew, proprietors domiciliated in this city, stipulating in this instance in their quality as executors of the will of the late Mr. Daniel Clark, and in addition acting as the legal holders of general and special powers of attorney for the widow, Mrs. Maria Clark, residing in Germantown, in the State of Pennsylvania, mother, only and sole heiress of the said Daniel Clark, according to procuration made under private seal, dated on the second of October, eighteen hundred and thirteen, deposited in the office of the late Mr John Lynd, who was when living notary, by act to his report, dated the twenty-second of April, eighteen hundred and seventeen.

The said gentlemen appearing have said and declared that, in consequence of the public sale, and at auction, which they have had made on the nineteenth of the month of December last, through the agency of Mr. Toussaint Mossy, public auctioneer in this city, of the estate forming the succession of Mr. Daniel Clark, they sell, give up, and transfer, by the present, from this time on and forever, with the promise, in their quality and in the name for whom they act, to guarantee against all trouble, dispossessions, and of all other impediments whatever, as well as from all debts, mortgages, as it is thus proved in this last report by the certificate of the keeper of public documents in this city, and dated on the twenty-seventh December last, and hereby represented, to Mr. Leon Courcelle, domiciliated in this city, purchaser, here present, who does accept and acquire for him, his heirs, and those concerned, a ground situated at the suburb St. Mary, designated by the number four upon the figurative plan of a portion of ground, A, B, C, D, E, F, and A, situated in the said suburb St. Mary, between the streets Circus, Pigeonnier, the estate of Vincent Rilleux, the streets Phillippa and Poydras, drawn by Mr. Joseph Pilie, surveyor of this city, dated of the fifteen , 1820; which plan has been deposited in my office by the said sellers in their quality, according to an act to my report, and dated of the twenty-seventh of said month; the said ground having sixty feet facing the street Circus, and eighty-nine feet nine inches depth, limited on one side by the ground designated under the number two, and from the other by that designated under the number six, and in the depth by the ground number three; such as the said ground is, in condition and demeanor, without reserving or excepting any thereof, the said purchaser declaring to know perfectly well the said property, that he is satisfied therewith, and that he does not require any more ample description.

1947.

The property presently sold forms a part of the estate composing the succession of the said Mr. Daniel Clark, as having been bought by him, greater extent of the land of the late G. T. Ross, according to a deed to the report of the late Pierre Pedesclaux, who was, when living, notary, and dated of the twentieth August, eighteen hundred and seven.

The present sale is made and agreed upon through the means of the sum of three hundred and fifty dollars, which the said purchaser has paid, without the notary and witnesses seeing it, to the said gentlemen sellers, who acknowledge it and give, by this present act, receipt and discharge to the said purchaser, with renunciation to the benefit of the law, non numerata pecunia, and of all other relative to the same.

And, providing the execution of what precedes, the gentlemen sellers, in their quality, and in the name for whom they act, make over to the said purchaser all the rights of property that the succession of the said Daniel Clark has, or can have, upon the ground presently sold, to the end that the said purchaser, who, since the day of said adjudication, acknowledges himself to be in good and legal possession, and may possess, exercise, and dispose of it at his will, as of a property appertaining to him legitimately in consequence of the present act.

Of which act is made and past at New Orleans, in the study, the nineteenth of January, eighteen hundred and twenty-one, in the presence of Messrs. Hugh K. Gordon and Lewis M. Taney, witnesses domiciliated, who have signed with the contracting parties, and the undersigned public notary, after reading done.

(Signed) RICHARD RELF,
BEVERLY CHEW,
L. COURCELLE,
L. M. TANEY,
HUGH GORDON,
SAVINIEN BLANC,
Public Notary.

For a true copy in conformity with the first draught.
THEO. GUYOL,
Notary Public.

Before Marc. Lafitte, public notary, duly commissioned for the city and parish of New Orleans, State of Louisiana, domiciliated there, and in the presence of the witnesses hereafter named and underwritten, was present Mr. Leon Courcelle, proprietor, residing in this city, suburb St. Mary, who declares to sell, give up, and transfer, as in fact he sells, gives up, and transfers, from now on and forever, with promise and guarantee of all trouble, dispossessions, claims, and of all impediments whatever, and of whatever title they may be, as likewise of all debts and mortgages, of which is justified in this instance by the report of the keeper of the public documents in this city, at the date of this day, to Mr. Bernard Cadillian, merchant, residing in this city, here present, who accepts and acquires for him, his heirs, or those con-

cerned, a ground situated at the suburb St. Mary, Circus street, designated by the number four upon the figurative plan of a portion of ground situated at the same suburb, drawn for Mr. Joseph Pilié, surveyor of this city, of the date of the fifteenth December, eighteen hundred and twenty, the deposition of which has been made in the study of Mr. Savinien Blanc, then notary, by an act of the date of the twenty-seventh of the same month of December; the said ground having sixty feet facing to the said Circus street, and in depth of eighty-nine feet nine inches, not built upon and surrounded, limited on one side of the same plan by the ground under the number two, and on the side by that designated by the number six; which ground is the property of the seller through the acquisition which he has made of it from the executors of the will of the late Mr. Daniel Clark. By an act received by the same notary, Mr. Savinien Blanc, the nineteenth January, eighteen hundred and twenty-one, according to record of it here, represented and delivered to the said purchaser, the present sale is made and agreed upon for and through the means of the sum of six hundred dollars, of which the said purchaser does pay in this moment ready money, in sight of the notaries and witnesses underwritten, with his check upon the Bank of the State of Louisiana of the same value, that of three hundred dollars, to the said seller, who acknowledges it, declares it, and gives thereof receipt to the said purchaser for that sum, and as a deduction of the price of the present sale, and for the $300 that complete the sum the said purchaser promises and obliges himself to pay and acquit them in six months from this day, and to that effect the said purchaser present in this instant and delivers a note by him consented to the date of this day, at the order of the said L. Courcelle, of the said sum of three hundred dollars, payable in six months of date. Which note the said Mr. L. Courcelle declares to have to receive, and to be satisfied with it, with reserve in consideration of its payment at its expiration, without reserve of mortgage; and providing this, the said seller transfers to the said purchaser all the right of property which he has and which appertains to him upon the ground described and by him sold by the present act. To the end that the said purchaser, who acknowledges himself to be in good and legal possession, may possess, exercise, and dispose of it at his will, as of a property legitimately appertaining to him, in consequence of the present act of sale. Such has been said, of which act has been made and passsed, at New Orleans, in the study, the nineteenth of February, eighteen hundred and twenty-five, the forty-ninth year of the independence of the United States, in the presence of MM. Theodore and Victor Seghers, witnesses, domiciliated in this city; the parties have signed, as well as the witnesses, and the notary undersigned, after reading.

Signed, B. CADILLIAN,
L. COURCELLE,
THEODORE SEGHERS,
VICTOR SEGHERS,
M. LAFITTE, *Pub. Not.*

I certify the copy which precedes is in conformity with the first draught deposited amongst the records of Marc Lafitte, formerly notary in this city, of whom I am the successor. In faith of which I have signed the present, and have impressed the seal of my office.

New Orleans, June the 18th, 1849.

A. MASUREAU, *Pub. Not.*

Before Marc Lafitte, public notary, duly comissioned for the city and parish of New Orleans, second senatorial district of the State of Louisiana, and residing there, and in the presence of the witnesses hereafter named and underwritten, was present Mr. Bernard Cadillian, domiciliated in this city, who declares selling and giving up, as in fact he sells, and gives up, and transfers by the present deed, from now and forever, and with promises to guarantee against all trouble, dispossessions, claims, and from all impediments whatever, of whatever title they may be, as likewise of all debts and mortgages; the certificate of the keeper of public records of this city, of the date of this day, here presented, and testifying that the property, hereafter described, is free of all mortgages, to Jean Frederic Oresmane Barabineau, man of color, residing in this city, here present, who accepts and acquires for himself, his heirs, and those whom it may concern, a lot of ground situated at the suburb St. Mary, Circus street, designated by the number four upon the figurative plan of a lot of ground situated in the same suburb, drawn by Mr. Joseph Pilié, surveyor of this city, from the date of the fifteenth of December, eighteen hundred and twenty, that is deposited in the study of Mr. Savinien Blanc, notary, from the date of the twenty-seventh of the same month of December, the said ground having sixty feet facing the said Circus street, and in depth eighty-nine feet nine inches, and is surrounded and limited on one side of the same plan by the ground under the number two, and on the other side by that designated under the number six, which ground is the property of the seller by the acquisition which he has made of it of Mr. Leon Courcelle, through an act received by the notary undersigned, the nineteenth day of February, eighteen hundred and twenty-five.

The present sale is made and consented for, and by the means of the sum of six hundred dollors, which the said purchaser has paid in ready money before the present deed was made, to the said seller, who acknowledges it, and gives to the said purchaser receipt in full, and discharge of the price of the present sale. To the end of which the seller transfers to the said purchaser all the right of property which he has, and which appertains to him, upon the ground described, and by him sold, so that the said purchaser who, since the day of adjudication, acknowledges himself to be in good and legal possession, may possess, exercise, and dispose of it at his will as of a property legitimately appertaining to him in consequence of the present act.

And so has been said, and of which all has been made and passed at New Orleans in the study, the twenty-third February, eighteen hundred and twenty-six, in the fiftieth year of the independence of the

United States of America, in the presence of Messrs. Theodore Seghers and Victor Seghers, witnesses for this requested, and domiciliated in the said city of New Orleans. The parties here signed, likewise the witnesses, and the undersigned notary, after reading having been done.

Signed, J. F. O. BARRABINO,
B. CADILLAN,
VICTOR SEGHERS,
TH. SEGHERS,
MARC LAFITTE,
Pub. Not.

I certify the copy that precedes is in conformity with the first draught deposited amongst the records of Marc Lafitte, formerly notary in this city, of whom I am the successor; in faith of which I have signed the present, and have impressed my seal of office on it. New Orleans, the 18th of June, 1849.

A. MAZUREAU, *Pub. Not.*

Exhibits filed with answer of Antoine Piernas.

Before Adolphe Mazureau, notary duly commissioned for the city and parish of New Orleans, residing there, and in the presence of the witnesses hereafter named, and undersigned, personally appeared Jean Frederic Orosmane Barabineau, man of color, and free, domiciliated in this city.

Who has by these presents declared to sell, give up, and transfer, under all guarantee of right, to Adele Lavigne, free colored woman, legitimately married to Antoine Piernasse, free colored man, domiciliated likewise in this city, here present and accepting for her, her heirs, or assigns, the said Adele Lavigne acting in the present case without the authorization of her said husband, on account of the momentary absence of him, of whom she promises to produce afterwards the ratification, in good and due form, of the present act of sale, as soon as he arrives in this city, which is accepted.

Half of a ground not yet built upon and surrounded, situated in Circus street, in the suburb St. Mary in this city, designated by the number four upon the figurative plan drawn by Joseph Pilie, surveyor of this city, the fifteenth of December, eighteen hundred twenty, of the same month of December, deposited in the study of Savinien Blanc, then notary, by an act of the twenty-seventh December, having half of the said ground presently sold thirty feet facing the said Circus street, by eighty-nine feet nine inches depth, and limited on one side by the estate of Azelia Lavigne, free colored woman, and on the other side by the other half of the ground number four, belonging to the said Barabineau; the said Adele Lavigne knowing the half of the ground to her presently sold, for she has seen and visited it at leisure, and de-

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clares to be satisfied therewith, and wishing no more ample description and designation.

Half of the ground, object of the present, belonging to the seller through the means of acquisition which he has made of it from Mr. Bernard Cadillian by an act to the report of Marc Lafitte, then notary in this city, and dated of the twenty third February, eighteen hundred twenty-six.

The present sale is made by and through the means of the sum of three hundred twenty five dollars, which the said purchaser has declared to have paid before these presents, and out of sight of the notary and of the witnesses underwritten, paid and counted to the seller, who acknowledges it, and gives of it a good and legal receipt and discharge.

By the means of the payment made in such manner and accepted, the seller transfers to the purchaser all the right of property and other which he has or can have upon the half of the said ground number four, by him sold by these presents to the purchaser, who acknowledges himself in good and legal possession, to procure, make, and dispose with the title of proprietor absolute from now on till ever.

From the certificate of the keeper of mortgages of this city, date of this day and annexed for reference, it appears that there are no mortgages recorded against the said Frederick Orosmane Barrabineau, upon half of the ground above described and previously sold.

Made and passed at New Orleans, this eighteenth of July, eighteen hundred and twenty-nine, in the presence of MM. Gustave Legardeur and Christoval Morel, both witnesses expressly required and domiciliated in this city, who have signed with the notary and the vendor; and the said purchaser having declared not being able to sign, and has affixed to the present her usual mark, the whole after reading done.

Signed to the original J. F. O. BARABINO,
Mark usual ⋈ of ADELE LAVIGNE, *f. d. c. l.*
GUSTAVE LEGARDEUR,
CHRISTOVAL MOREL,
A. MAZUREAU, *Not. Pub.*

I certify the copy that precedes in conformity to the original deposited in my study for reference. In faith of which I have signed these presents and impressed my seal of office, at New Orleans, the twenty-eighth day of July, eighteen hundred and twenty-nine.

Exhibits filed with the answer of Widow Ambroise.

Before Greenbury Ridgely Stringer, notary public, at New Orleans, State of Louisiana, United States of America, and in the presence of the witnesses hereafter named and undersigned:

Were present Mr. Richard Relf and Mr. Beverley Chew, domiciliated in this city, stipulating in this instance in their quality as executors of the will of the late Mr. Daniel Clarke, and in addition acting as the legal holders of general and special powers of attorneys for the

widow, Mrs. Mary Clark, residing in Germantown, in the State of Pennsylvania, mother, only and sole heiress of the said Daniel Clark, according to records made under private seal, dated of the second of October, eighteen hundred and thirteen, duly recorded in the study of the late John Lynd, notary in this city, by an act dated of the twenty-second April, 1817, who have declared that in December, eighteen hundred and twenty, at which time they had the property composing the property of the late Mr Clark, sold at auction, they sold amicably and at pro rata of the price of estates sold at auction to Mr. Vincent Rillieux, of this city, a lot of ground, situated at the corners of the streets Philippa and Pigeonnier, measuring seventy-three feet facing the street Philippa, and ninety feet eight inches to the street du Pigeonnier, such as this lot of ground is figured in yellow, and marked V. Rillieux on a plan made the fifteenth December, eighteen hundred and twenty, by Mr. Joseph Pilie, surveyor, of this city, which plan has been deposited in the study of Savinien Blanc, then public notary in this city, at the page two hundred and seventeen of his register, of the year eighteen hundred and twenty, and has been made to divide a lot of ground not yet built upon, and situated in the suburb St. Mary, and of which the lot of ground the object of the present act is part, but which Mr. Vincent Rillieux, having never paid it to the said gentlemen appearing of three hundred and ninety dollars, accorded price, for the said sale, the gentlemen appearing have not been able to pass the act of sale to the said Mr. Rillieux; and that to-day the said Mr. Rillieux having failed, and the syndics of his creditors having paid the amount of the said lot of ground, and required themselves, appearing, to pass an authentic act of the said sale, the said Mr. Richard Relf and Mr. Beverly Chew, in their above mentioned quality, have declared by the present to sell, give up, and transfer, from now on till ever, with promise to guarantee of all trouble, donations, debts, mortgages, dispossessions, alienations, and all other impediments generally whatever, to the creditors of the said Vincent Rillieux, here represented by MM. Etienne Carraby, Laurent Millaudon, Toussaint Mossy, and Honore Landreaux, duly elected syndics of the said creditors, and who declared their quality to accept the present sale for the said creditors, their heirs or assigns, the lot of ground above mentioned, such as the said ground is in condition and demeanor, without reserving or excepting thereof, and such at last as the said Mr. Rillieux has formerly possessed it, for that the said creditors of Rillieux may dispose of the said lot of ground, as of the other properties of the said Mr. Vincent Rillieux.

The present sale is made for and through the means of the sum mentioned above, of three hundred and ninety dollars, which the said MM. Relf and Chew have declared to have received, ready money, from the said syndics of Rillieux, and of which they give them good and valuable receipt, and discharge in full and entire of the price of the said lot of ground.

It is such, &c., promising, &c., obliging, &c., renouncing, &c., act of which has been made and done at New Orleans, in the study,

the seventeenth January, eighteen hundred and twenty-five, in the presence of MM. John Peterkin and Felix Brunel, both witnesses requested and domiciliated, and have on appearing, signed with the said notary, and witnesses after reading done.

Signed, RICHARD RELF,
BEVERLY CHEW,
ETIENNE CARRABY,
T. MOSSY,
H. LANDREAU,
JOHN PETERKIN,
L. MILLAUDON,
G. R. STRINGER,
Pub. Not.

For a true copy in conformity with the original remaining in my study for reference; in faith of which I have signed the present, and impressed my seal of office at New Orleans, this eighteenth day of the month of May, eighteen hundred and thirty-six, one word interlined and approved, one word erased, null.

F. GRIMA, *Pub. Notary.*

Exhibit (S) filed with the answer of Francis D. de la Croix. Record No. 150, Myra Clark Gaines *vs.* De la Croix et al., page 43.

Before me, Marc Laffitte, notary public, in and for the city and parish of New Orleans, second senatorial district of the State of Louisiana, and in presence of the undersigned, personally appeared Richard Relf, a merchant of this city, who, in the name and as testamentary executor of the late Daniel Clark, and moreover as holding a general and special power of attorney from Mary Clark, mother of the deceased Daniel Clark, and his sole and only heir, the said power of attorney being delivered in the presence of witnesses under the date of the first, before the honorable John Barker, mayor of the city of Philadelphia, the second of the same month, and recorded in register N, folio 145 and 146, in the office of Mr. Clement Biddle, notary public in the said city of Philadelphia, on the fourth of the said month of October, to the said Richard Relf, in his said capacity, sells, conveys, and transfers, and by these presents, has sold, conveyed, and transferred, with promise of warranty of title, and as to diseases made known by law.

Mentioned in the certificate of the conservateur of this city, bearing this date, and for which to Francis Dusuau de la Croix of this parish, here present and accepting for himself, his heirs and assigns, fifty-five negroes, slaves, herein denominated, to wit, Salomon, aged forty years; Jacob, aged twenty-five years; Jacques, aged eighteen years; Paul, aged twenty-two years; Randolph, aged thirty years; Ned, aged thirty years; Isaac, aged thirty years; Austin, aged twenty-five years; Janvier, aged sixteen years; Charles, aged thirty-five years; Jacque, mulatto, thirty years; Cardena, aged twenty-five years; Jeremie, aged thirty-five years; David, aged twenty years; Bob, aged twenty-six years; Boen, aged

forty years; Tom, aged thirty-five years; Haley, aged thirty years; Harry, aged fifteen years; Cox, aged forty years; Sam, aged forty years; January, aged forty years; Rose, aged twenty-five years; Porter, aged forty-five years; Chloe, aged thirty years; Lucy Morrow, aged thirty-five years; George, aged ten years; Spencer, aged forty-four years; Fleman, aged twenty-five years; Dorriana Smith, aged sixteen years; Little Winey, aged twenty-five years; Judith, aged twenty-five years; Betty, aged twenty-six years; George, mulatto, aged thirty years; Davee, or Dives, aged five years; Ben, aged twenty-six years; Jack, aged twenty-five years; Mary, aged thirty years; Joe, aged fifteen years; Sukey, aged twelve years; Victorine, aged ten years; Joe, aged sixteen years; Davis, aged thirty years; John Harrod, aged twenty-five years; Wallace, aged thirty years; Andrew, aged forty years; Squire, infant; Tom, infant; Davis, infant; Ann, infant; Gabriel, infant; George, aged ten years; all which slaves form a portion of the succession of the late Daniel Clark, to whom they belonged.

This sale is made in consideration of the payment of twenty-one thousand two hundred dollars, of which sum the said purchaser has paid seven thousand seven hundred and sixty dollars on account to the said seller, who, in virtue of his afore mentioned powers, gives a good and valuable discharge and acquittance to the said purchaser, and all renunciations of right to the benefit of the law, non numerata pecunia, and others relative.

As to the thirteen thousand four hundred and forty dollars, the balance of the principal of the present sale, the said purchaser promises and obliges himself to pay it upon the acquittance from the succession of Daniel Clark, to Madam Hardy de Boisblanc, widow, to whom this sum is due, agreeably to the terms of a mortgage obligation passed before me, bearing date the 10th May of the present year, which payment will effect itself to each party to the said act; and, by the conditions below established, the said Richard Relf, in the said qualities in which he acts, conveys to the said purchaser all the rights of property that the late Daniel Clark had, and that his heir, Madam Mary Clark, now has, to the fifty-five slaves above mentioned and sold, that the said purchaser, who acknowledges to be in good and due possession, may do and dispose of these slaves as property legitimately belonging to him by virtue of these presents.

And the parties having taken notice of a certificate from the recorder of mortgages on that portion of fourteen slaves above mentioned, in favor of the widow Hardy de Boisblanc, in virtue of the mortgage obligation above related of the to the charge of Dusuau de la Croix, purchaser, agreeably to an obligation by him taken in these presents, in respect to the negress Rose, and the negroes Jack and Tom, that by these are hypothecated in favor of S. Henderson; and of the negro Jacques, who appears to be hypothecated in favor of the heirs of J. B. Castellan. Mr. Relf observes, that this perhaps is a mere error occasioned by the identity of the names ; said there was in the succession many negroes of that name, and who have been

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sold with the estates to which they belong; promising for the surplus to guarantee the purchaser from all troubles on that account.

This act agreed to, determined, and accepted by the parties; promising, &c., obliging, &c., renouncing, &c. Of which act done and passed in New Orleans, in my office, the eleventh day of May, 1813, the thirty-eighth of the independence of America, in presence of Jean Baptiste G. Vernon, S. Michel Ba. Fourcisy, both witnesses summoned and domiciliated in this city, who have, as well as the parties, signed with the notary, after reading made.

RICHARD RELF, *Ex.*
DUSUAU DE LA CROIX,
JUAN FOURCISY,
MC. LAFITTE, *Not. pub.*

(*Printed record, page* 271.)

This day, the 30th March, 1836, and the sixtieth of the independence of the United States of America, before Louis T. Caire, notary public, in and for the city and parish of New Orleans, duly commissioned and sworn, and in presence of the witnesses hereafter named and subscribed, appeared Joseph Antoine Bonnaventure Martin, residing in the city of New Orleans, in the faubourg St. Mary.

Who by these presents has sold, conceded, resigned, made over, and abandoned, now and forever, and has promised and obliged to give warranty against all difficulties, gifts, debts, hypothecations, evictions, alienations, and other hindrances whatsoever, to Mary Therese Moyse, f. c. l., widow of Jean Baptiste Ambroise, h. c. l., residing in the city of New Orleans, in Phillippa street, faubourg St. Mary, here present and accepting, purchaser for herself, her heirs, and assigns, a lot of ground, of irregular form, situated in Pigeonnier or Perdido street, faubourg St. Mary, designated by the number eleven, in a plan of a portion of the land situated in the said faubourg, between Circus, Pigeonnier, or Perdido, Phillippa, and Poydras streets, deposited in the office of G. R. Stringer, notary in this city, by act of the 27th of December, 1820, the said lot of ground fronting, (French measure,) thirty feet one inch on Pigeonnier or Perdido street, eighty-six feet ten inches along the side of lots Nos. nine and ten, on the plan above mentioned, eighty-two feet three inches along the side of the property formerly belonging to Vincent Rillieux, and twenty-nine feet nine inches along the line which separates it from the same plan; together with the buildings constructed on the said lot of ground, their circumstances and dependencies.

The said land agrees and comports with all the rights and privileges dependant upon it, without any exception or reserve, and of which the purchaser has not desired that there should be any fuller designation made, declaring that she has examined it, is acquainted with it, and is satisfied with it.

The land above sold belongs to the said Martin, awaiting the sale which has been made of it to him by Mr. Garrittson Austin, according

to an act passed before Hugues Pedesclaux, notary in this city, the sixteenth of June, 1835.

The said Martin, for the purpose of guarding silence on this subject, in the above act declares that he is assured that the said Austin, his vendor, was not married, and was not charged with the guardianship or curatorship of any minors, interdicts, or absentees, before the above mentioned sale.

The said purchaser declares that she is acquainted with the titles anterior to this above mentioned, and that she does not desire that there should be any relation of them here, reserving, unquestionably, the entire effect of the warranty to which the said Martin is above obliged.

In order that the said purchaser, her heirs and assigns, may enjoy, do, and dispose of the said lands, improvements, and appurtenances in full possession and enjoyment from this day, the present sale is made, according to the conditions of law, after the law and usage, in consideration of the sum of two thousand nine hundred dollars, as a part of which the said purchaser has now paid to the said Martin, who acknowledges it to be in cash, the money being counted and delivered in the presence of the notary and undersigned witnesses, the sum of fourteen hundred and fifty dollars; for so much of which he grants an acquittance.

As to the sum of fourteen hundred and fifty dollars, composing the balance of the said price, the said purchaser obliges himself to pay to the said Martin, or for him to the holder of the note hereafter mentioned, in one year, counting from this day. And to facilitate the said Martin in the disposition of the said sum, the said purchaser has now furnished to him a note of like sum of fourteen hundred and fifty dollars, drawn by her to the order of Mr. Francis Sel, who endorsed it, dated from this day, and payable in a year from this date; which note has been signed and countersigned, ne varietur, by the said Caire, undersigned notary to identify it with these presents, and presented to the said Martin, who acknowledges it, and of it grants discharge.

As security for the payment of which sum of fourteen hundred and fifty dollars, in consequence of the said note, the said lots of ground and improvements, above sold, rest and remain, by privilege first expressly reserved and stipulated, specially affected, obliged, and hypothecated, in favor of the said Martin and of the holder of the above mentioned note.

Under the reservation of this privilege the said Martin places and subrogates the said purchaser in all the rights of property and others that he can have to the said land and improvements above sold, even in all the rights of redress, in warranty, and all actions whatsoever that he has or could exercise by such title or for such cause.

Disseizing himself of all rights and actions, without any exception, in favor of the said purchaser, desiring that she may be seized of it, and that she may use and dispose of it, in his stead and place, as he himself could have done, and as a thing legitimately appertaining to him by these presents.

In support of the present sale the said Martin has given to the said

purchaser, who acknowledges it, a copy of the act of sale above mentioned, of the sixteenth of last June, and the copy of an act passed before Hugues Pedesclaux, notary in this city, May 8, 1833, containing the sale of the said property to the said Garrison Austin.

The said Martin declares, 1st, that he has never been charged with the tutillage or guardianship of any minors, whether interdicts or absentees; 2d, that he has not contracted any other marriage than that which exists between himself and Adelaide Morime, still a minor, of only sixteen years of age, and, in consequence, not being able to renounce any rights that the laws give to her to the property sold; but the said Martin here formally obliges himself to guarantee the said purchaser against all recourse or actions that the said Madam Martin can or may bring for the property above sold; and, besides, to give to her, immediately after the majority of the said Madam Martin, an act, in good form, containing, on the part of the said Madam Martin, her approbation of the present sale, and her formal renunciation of all the matrimonial, dotal, paraphernal, or other rights, and every hypothecation that she has or can have upon the said property above sold, clear of all expense, damage, or interest.

And for the greater surety of the above engagement, entered into by the said Martin, Madam Bonaventura Martin, widow, interposes, in these presents, to oblige herself, conjointly and together with the said Martin, to guarantee the said purchaser from the effect of the said rights that the said Madam Martin has or may have to the said property sold, and to present to her the renunciation of the said Madam Martin to the said rights as soon as she shall have attained her majority; the whole under the guaranty hereafter stipulated.

To give effect to the above, appeared Madam Louise Duverney, widow of Mr. Bonnaud Ventura Martin, residing in the city of New Orleans, in Camp street, faubourg St. Mary, who has, by these presents, declared that she obliges herself to the said purchase, conjointly and together with the said Martin, even she alone for all, to wit: 1st. To defend the said purchase from the effect of all matrimonial, dotal, paraphernal, and other rights, and from all hypothecations that the said Madam Martin has or can have upon the property above sold by the said Martin; and, in consequence, to render to the said purchaser perfect indemnity in all things relating to this subject which she makes her personal affair, as if she was sole or principal bound. 2d. To give to the said purchaser, immediately after the majority of the said Madam Martin, this lady's renunciation of all the rights and hypothecations that she has or can have on the said property above sold by her husband; the said Madam Bonnaud Ventura Martin, widow, obliging herself wholly and principally, as if it were her own personal affair, with the effect of said ratification, immediately after the majority of the said Madam Martin, clear of all expense, damage, or interest.

As security for the above, the said Madam Bonnaud Ventura Martin obliges and specially hypothecates, as much for the price of the present sale as for all expenses, damages, interests, and charges, which may accrue to the said purchaser, to wit, a lot of ground situated in Camp street, in the faubourg St. Mary, in the city of New Orleans, fronting sixty feet on

said Camp street, by a hundred and sixty feet in depth, together with all the improvements which exist on the said lot, the whole belonging to her from the sale that was made of it to her by Louise Laprade, widow of Antoine Duvernay, according to an act passed before John Lynd, notary in this city, 26th August, 1807, the said Madam Bonnaud Ventura Martin, widow, consenting that these presents shall be recorded in the mortgage office in this city for the benefit of the said widow Ambroise.

The said widow, Bonnaud Ventura Martin, declares that she is not charged with the tutillage or curatorship of any minors, interdicts, or absentees.

It is fully understood that the said widow Bonnaud Ventura Martin, will be discharged from all the said obligations above mentioned, as soon as the said Madam Martin shall have duly renounced the rights and hypothecations that she has or can have on the property above sold, and that then the mortgage above will be rased and restored to her. According to a certificate delivered by the recorder of mortgages, there is no other mortgage registered against the said widow Bonnaud Ventura Martin on the property that she has above hypothecated in favor of the said widow Ambroise.

According to another certificate, delivered by the same recorder this day, and here annexed, there is no other mortgage registered against the said Martin, upon the property above sold to the said widow Ambroise, than that located by an act before Hugues Pedesclaux, notary, bearing date the sixteenth of June, 1835, in favor of G. Austin, as security for a thousand dollars, with interest at eight per cent. per annum.

The said Martin obliges himself to pay immediately the sum and interest due upon the last mortgage, and have it rased immediately from the books of the recorder.

This act made and passed in my office in New Orleans the day, month, and year above mentioned, in presence of Messrs. Charles Darcantel and Philippe Lacoste, witnesses summoned and domiciliated in this city, who, with the parties and myself, (notary,) have affixed their signatures after reading had; and the said widow, Bonnaud Ventura Martin, declaring that she does not know how to write or sign her name, has made her usual mark, after reading had.

MARIE THEREZE MOISE, veuve AMBROISE,
BONNAUD V. MARTIN, widow, her × mark.
J. A. B. MARTIN,
CHARLES DARCANTEL,
PHILLIPE LACOSTE,
LOUIS T. CAIRE, *Not. Pub.*

I certify the foregoing to be a true copy of the original act on file and of record in my office. In faith whereof I grant these presents under my signature, and the impress of my seal of office, at New Orleans, on the 14th day of April, 1836.

LOUIS T. CAIRE, *Not. pub.*

To-day, the 18th of August, in the year of our Lord one thousand eight hundred and thirteen, and of the independence of the United

States the thirty-eighth, at four o'clock, at the requisition of Richard Relf, and in obedience to the order of the honorable judge of the probate court of this date, directing an inventory of the estate of the late Daniel Clark, according to law, we, Thomas Beale, register of wills for the city and parish of New Orleans, went on the Bayou road to the house in which the late Daniel Clark died, in order to inspect and lift the seals placed by Gallien Preval, one of the justices for the said city and county, upon the possessions of the said deceased. Being there, we met Mr. Richard Relf, testamentary executor of the deceased, M. Moreau L'Islet, advocate appointed by the court to represent the absent heiress, and Mr. Gallien Preval, justice of the peace; and in their presence, and in that of Messrs. Prospere Prieur and Sebastien Blondeau, witnesses, we required Francisco Morales, guardian of said sealed effects, to exhibit the same, which he did, as follows: First. A wardrobe of wood, the seals being recognised as intact. The said guardian being discharged, the wardrobe was opened; we found nothing but papers, which were examined carefully, to get at such notes as had but a short time to run. We found, first, a note on demand for $4,461, drawn in favor of deceased by John Lynd, dated 10th April, 1813, payable four months after date; this we classed, marked, and put in the inventory under letter A No. 1 - - - - $4,461

Item. Another note for $400, dated 7th July, 1813, payable sixty days after date, drawn in favor of deceased by G. Debuys; this note was classed and lettered B No. 2 - - 400

$4,861

Which notes we placed in the hands of Mr. Relf, testamentary executor, who took charge of them; and all the papers of the said wardrobe having been carefully examined, as also those of a mahogany wardrobe standing in the same room, and not finding any will or other notes of short dates, we tied up all the papers, which we placed in the said bureau, upon which we placed the seal No. 1, and entrusted the keys of the bureaus to the care of Mr. Francisco Morales, who promised, on oath, to return them when and as often as he shall be legally required. And all the parties have signed with us, the same day, month, and year as above; and we withdrew, appointing the continuation of the present inventory at ten o'clock to-morrow, of which all the parties and the witnesses were duly informed.

(Signed) RICHARD RELF,
THOS. BEALE, *Register of wills.*
GALLIEN PREVAL, *Justice of the peace.*
BLANDEAU,
PROSPERE PRIEUR,
E. MOREAU LISLET,
Representative of the absent heirs.

And, to-day, the 19th August, in the year of our Lord one thousand eight hundred and thirteen, and the thirty-eighth of the independence of the United States of America, at six o'clock in the morning, the

hour agreed upon, we, Thomas Beale, register of wills for the city and parish of New Orleans, repaired to the dwelling on the Bayou road, where the late Daniel Clark died, in order to draw up an inventory of and to value the furniture, effects, jewels, plate, lands, slaves, titles, and papers belonging to said estate; being here, we met with Messrs. Richard Relf, testamentary executor of the deceased, and Louis Moreau L'Islet, the lawyer appointed by the court to represent the absent heiress. The Messrs. Prospère Prieur and Sebastien Blondeau, being duly sworn in their presence to the faithful performance of their duties as appraisers of the property belonging to the inheritance, we proceeded as follows:

First, in a lower room, the following objects we found:

A high-post bedstead, of cherry, with three mattresses of Spanish moss, and ticking; a bolster, two pillows, and an old muslin musquito bar, with its trimmings, valued by the aforesaid appraisers at	$35 00
Item. A small walnut bureau in the form of a book case -	20 00
Item. A small cherry table - - - -	3 00
Item. Small folding cherry table - - - -	4 00
Item. Wardrobe, yellow wood - - - -	30 00
Item. 12 chairs, wood, painted green - - -	12 00
Item. Pair of horse pistols, with holsters - - -	12 00
Item. Dagger, mounted in silver - - - -	3 00
Item. Sabre, brass mounted - - - -	12 00
Item. Two pairs of razors, with small toilet glass - -	2 00
In the upper room—	
A set of china, composed of 12 cups, 11 saucers, a tea-pot, a cream-pot, a sugar dish, and 3 plates, together with a waiter, painted red - - - - -	30 00
Item. Another set of porcelain, consisting of 12 cups, 12 saucers, a coffee-pot, a bowl, and three plates, with a waiter, painted black - - - - -	20 00
Item. Wash-bowls and pitcher - - - -	10 00
Item. Two old card tables - - - -	4 00
Item. 1 folding table, cherry - - - -	8 00
Item. 1 case of mathematical instruments, and a small powder flask - - - - - -	4 00
Item. A library, composed of 703 vols., on various subjects, some of which are liable to be reclaimed by their owner - - - - - - -	700 00
Item. 18 spoons, 12 forks, 1 soup ladle, 16 tea spoons, 24 cream spoons, and a sugar tongs—the whole of silver, and weighing 128 ounces 6 grains - - -	128 00
Item. An English gold watch, double case - -	26 00
Item. 10 pieces heavy blue "ratine," $25 per piece -	250 00
Item. Broken dinner set, blue china - - -	50 00
6 doz. red wine, at $6 per doz. - - -	36 00
10 doz. white wine, at $8 per doz. - -	80 00
	$1,489 75

The above is a complete list of the furniture and effects belonging to the estate. We then proceeded to the valuation of the slaves of the estate.

Slaves.

Name.	Occupation.	Age.	Valuation.
Will,	field hand,	31 years	$500 00
Lubin,	house servant,	35 "	600 00
Coks,	foreman, mulatto,	45 "	550 00
Solomon,	field hand, negro,	45 "	500 00
Jacob,	field hand, sick,	17 "	300 00
Jack Lugen,	" negro,	18 "	550 00
Anthony,	" "	40 "	500 00
David,	" "	50 "	450 00
Paul,	" "	22 "	450 00
George,	" "	50 "	200 00
Adam,	" "	50 "	300 00
Doctor David,	physician, negro,	35 "	500 00
Randolph,	field hand, "	35 "	450 00
Etienne,	" "	50 "	400 00
Lubin,	" "	40 "	400 00
Ref,	" "	45 "	400 00
Providence,	" "	45 "	400 00
Figara,	" "	30 "	500 00
Lindor,	" "	30 "	550 00
Nerife,	" "	30 "	500 00
Nese,	" "	30 "	500 00
J. Sam,	" mulatto,	18 "	500 00
Jean,	" negro,	20 "	500 00
Solomon,	" "	45 "	450 00
Austin,	" "	25 "	500 00
James,	" "	16 "	500 00
Gibaud,	" "	45 "	400 00
Wallis,	" "	30 "	500 00
Charles,	" mulatto,	45 "	500 00
Jacques,	" "	35 "	500 00
Codio,	" "	–	500 00
Davis,	whip sawyer,	60 "	300 00
Cardinal,	negro,	25 "	450 00
Jeremiah,	field hand, negro,	35 "	500 00
Ebony,	" "	40 "	400 00
John,	" "	40 "	400 00
Mérode,	" "	35 "	450 00
Willis,	" "	18 "	550 00
Moses,	" "	16 "	500 00
Davis,	" "	20 "	450 00
Andrew,	" "	20 "	500 00

SLAVES.—Continued.

Name.	Occupation.	Age.	Valuation.
Dress,	field hand, negro,	45 years	400 00
Andrew,	" "	55 "	250 00
Thom,	" "	45 "	450 00
Bobe,	" "	28 "	550 00
Alder,	" "	35 "	400 00
James,	" "	60 "	150 00
Harry,	house servant, mulatto,	15 "	500 00
Stouder,	stock minder, "	45 "	400 00
Arthur,	negro boy,	12 "	300 00
Sam,	negro man, house,	48 "	300 00
Ledger,	boy, negro,	11 "	300 00
Phœbe,	field hand, woman,	60 "	200 00
Fanny,	" "	60 "	200 00
Anna,	negro woman,	22 "	300 00
Genevieve,	negress creole, Natchez,	45 "	400 00
Betty,	negress,	50 "	400 00
Polly,	25 years, with two children, John 5 years, and Julian an infant -		600 00
Liza,	mulatto, aged 20, with her infant William, 14 months old - -		500 00
			$26,600 00

These constitute all the slaves presented to us as belonging to the estate of said deceased Daniel Clark.

After which, we, the aforesaid and undersigned register, proceeded to the description and valuation of the house, as follows:

Houses and Lands.—A storied house, fronting seventy feet on Bretonne Place, and running back fifty feet, containing a large room and three chambers, (two with fire-places, and a gallery, on the ground floor; a large room, three apartments, (two with fire-places,) in the second story; and a gallery and a garret, divided into several small chambers. The said house is built of bricks, and covered with shingles.

Besides, a building containing kitchen and lodging rooms, for servants, seventy feet long, built of colombage and covered with shingles, valued, with the ground upon which it stands, agreeably to the plan of B. J. Lafon, and designated as No. 5, (being too well known to require further description,) at $10,000.

Mr. Richard Relf, the testamentary executor, out of respect to the deceased, requested that the inventory of the wardrobe and body linen be not proceeded with; which request was acceded to by M. Moreau L'Islet, the legal representative of the heiress.

At three o'clock, after securing the papers in three trunks, under

seal, all parties consenting in the usual form, the examination was postponed to the following day, at four o'clock.

After reading the foregoing proceedings, we found that the estimated value of the furniture, so far as examined, amounts to one thousand four hundred and eighty-nine dollars and seventy-five cents. The value of the slaves amounts to twenty-six thousand nine hundred dollars, and that of the house above described, to ten thousand dollars. The which furniture, effects, slaves, and houses, we have left to the disposal of Mr. Richard Relf, testamentary executor, who charged himself with them, and who joined with us and other parties and witnesses, in signing the foregoing, on the same day, month, and year as above. We then withdrew.

Signed,

BLONDEAU,
MOREAU L'ISLET,
Representative of absent heirs.
PROSPERE PRIEUR,
RICHARD RUD,
RICHARD RELF.
THOMAS BEALE,
Register.

And to-day, the 20th of the month of August, in the year of our Lord one thousand eight hundred and thirteen, and of the independence of the United States of America the thirty-eighth, at four o'clock, we, Thomas Beale, register of wills, for the city and parish of New Orleans, proceed, in our office, in the presence of the parties and witnesses assembled, to the selection and classification of the papers contained in a small trunk, upon which was placed the seal, No. ——, in the following manner:

Actifs. First. A note to order, for the sum of five hundred dollars, accepted in favor of deceased, by Morin, acting under a power of attorney from his wife, duly witnessed, &c., by Brontin, notary public, dated 3d July, 1813, and payable during all December next; the said note was marked and inventoried by us under the letter C, No. 3 - - - 3	$500 00
Item.—Another note to order of the sum of two hundred and eighty-four dollars and fifty cents, accepted in favor of the deceased by P. D. Toley, dated 6th September, 1810, and payable on demand; by us classed, marked, and accounted for under letter D, No. 4. On the back of said note is a credit in the handwriting of deceased for one hundred dollars, which reduces the value of said note to one hundred and eighty-four dollars and fifty cents - - - - -	184 50
Item.—A bond for one hundred dollars, drawn in favor of the deceased by L. Boisdore, dated 14th of April, 1810, payable on demand; classed, marked, &c., under letter E, No. 5 - - - - 5	100 00

Item.—A note for ten dollars, payable on demand, drawn in favor of deceased by A. J. Lancell, dated 29th of August, 1811; marked, classed, &c., under the letter F, No. 6 - - - - - 6 $10 00

Item.—A note for one thousand dollars, payable at will, drawn in favor of deceased by Gilberto Leonard, dated 13th of March, 1797; classed, marked, &c., under the letter G, No. 7 - - - - - 7 1,000 00

Item.—A note for one hundred dollars, dated 23d of February, 1813, payable at will, accepted in favor of deceased by Abraham Arcenaus; classed, &c., under letter H, No. 8 - - - - - 8 100 00

Item.—A note for one hundred dollars, dated 4th of September, 1811, drawn in favor of deceased by Mr. Perez; classed, &c., under letter I, No. 9 - - - 9 100 00

1,994 50

Amount brought forward - - - - - 1,994 50

Item.—A bond for three hundred dollars, accepted in favor of deceased by Magnau, dated 23d of March, 1810; classed, &c., under letter J, No. 10 - 10 300 00

Item.—A note to order for three thousand dollars, dated 20th May, 1811, payable 1st May, 1812, accepted in favor of deceased by Elizabeth R. Trépagnier; classed, &c., under the letter K, No. 11 - - 11 300 00

Item.—An acknowledgment in favor of the deceased by Colsson, for fifty-four dollars and twenty-five cents, dated 17th October, 1806; classed, &c., under letter L, No. 12 - - - - - 12 54 25

Item.—A note for fifty-five dollars, dated 23d November, 1811, payable one year from date, drawn in favor of deceased by Richard Devals; classed, &c., under letter M, No. 13 - - - - 13 55 00

Item.—A note for seven thousand three hundred and thirty-three dollars and ninety cents, drawn in favor of John Clay by James Sterrot, dated 3d October, 1808, payable six months from date; which note is endorsed by John Clay and the deceased, beneath which is a receipt to deceased for the amount of the note, signed by P. Grymes; classed, &c., under letter N, No. 14 - - - - - 14 7,333 90

Item.—An order drawn by Chevalier de Bellogent on M. Barriere in favor of deceased for one hundred and sixty-two dollars; classed, &c. under letter O, No. 15 162 00

Item.—A note for six thousand five hundred and fifty-seven dollars and ninety-two cents, drawn in favor of William Brooks by Ferdinand L. Claiborne, dated 18th November, 1811, payable 1st February, 1813, the said note endorsed by William Brooks, Ferdinand

H. A. Claiborne, and Chew & Relf; classed under letter P, No. 16 - - - - 16 $6,557 92

Item.—A note dated 15th July, 1799, for forty-two dollars, accepted in favor of deceased by John Raffray; classed under the letter Q, No. 17 - - 17 4,200 00

Item.—A bond drawn in favor of deceased, dated 8th June, 1813, payable 8th June, drawn by William Harper, for thirty-one thousand dollars; classed, &c., under letter R, No. 18 - - - 18 31,000 00

Item.—A note for two thousand dollars, drawn to order of deceased by William Harper, dated 1st May, 1813, payable 1st May, 1820; classed, &c., under letter S, No. 19 - - - - - - 2,000 00

Item.—Three notes of same date for two thousand dollars each, amounting in all to six thousand dollars, payable on the 1st, 18th, and 19th May, 1817, drawn by William Harper in favor of deceased; classed, &c., under letters U, V, W, and Nos. 21, 22, and 23 - 6,000 00

Item.—Two notes for three thousand one hundred and twenty-five dollars each, amounting together to six thousand two hundred and fifty dollars, signed in favor of deceased by Henry Hunt, dated 15th May, 1810, payable in one and two years from date; classed under letter XX, and Nos. 24 and 25 - - - 6,250 00

Item.—A note dated 15th May, 1810, bearing interest from date, drawn in favor of deceased for three hundred dollars by William Hunt; classed, &c., under letter Z, No. 26 - - - - - 300 00

Item.—A due bill for 903, drawn in favor of deceased by John Watkins, dated 24th August, 1807; classed, &c., under double letter AA, No. 27 - - 300 00

Item.—Due bill for five thousand four hundred and ninety-five dollars and seventy-five cents, drawn in favor of deceased by Edward D. Turner, and dated 19th December, 1808; classed, &c., under double letter BB, No. 28 - - - - - 5,495 00

$70,145 32

Amount brought forward - - - - $70,145 32

Item.—A mortgage bond for nine thousand six hundred and nineteen dollars and fifty cents, given in favor of deceased by John Watkins, dated 29th August, 1805, acknowledged before Peter Pedesclaux, notary public, and inserted here only as a memorandum; classed &c., under double letter CC, No. 29 - - 9,619 50

Item.—Bank book by which it appears that there is a

balance due the estate by the Bank of Louisiana of eighty-three dollars and ninety-eight cents; classed &c., under double letter DD, No. 30 - -	$83 98
Item.—Bank book showing balance due estate by the Cttizens' Bank for four thousand one hundred and eight dollars and forty-three cents; classed under double letter EE, No. 31 - - - -	4,108 43
Item.—Bank book showing balance due the estate by Bank of Orleans to be three thousand and thirty-seven dollars and seventy-three cents; classed, &c., under double letter FF, No. 32 - - -	3,037 73
	$86,994 96

It being now seven o'clock, proceedings were here suspended, to be resumed (by consent of parties) on Monday, 23d instant. On reading the foregoing we find the amount of accounts to be eighty-six thousand nine hundred and ninety-four dollars and ninety-six cents.

Signed by all the parties and witnesses on the same day, month, and year, as above mentioned.

Signed,

MOREAU L'ISLET,
Representing the absent heirs.
BLONDEAU,
PROSPERE PRIEUR,
RICHARD RELF,
THOMAS BEALE,
Register.

And to day, the twenty-third of August, in the year of our Lord one thousand eight hundred and thirteen, and the thirty-eighth of the independence of the United States of America, at six a. m., we, the aforesaid Thomas Beale, register of wills, proceeded in our office in the presence of all the parties and witnesses assembled, for the selection, classification, and making an inventory of the papers belonging to the estate of the said deceased Daniel Clark, in the following manner; after having in the presence of the said parties and witnesses lifted the seals (which were recognised as intact) from the small trunk containing the papers.

First. A bundle containing twenty-eight notes, drawn in favor of the deceased by persons supposed to be insolvent, amounting together to eight thousand four hundred and fifty-three dollars and eighty-nine cents and a half, which were classed, marked, and entered here merely by way of memorandum; the said bundle was put in the inventory under the double letter GG, No. 33.

Item.—A bundle containing thirty-four documents, relating to Florida lands, which were regularly marked and classed; and the bundle was put in the inventory under the double letter HH, No. 34.

Item.—A bundle containing eighteen agreements, classed and

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arranged; the said bundle was put in the inventory under the double letter II, No. 35.

Item.—Another bundle containing seven mortgages in favor of the estate, which we regularly classed and arranged; the bundle was put in the inventory under the double letter JJ, No. 36.

Item.—Another bundle containing thirty-one bills of sale of slaves; by us classed, marked, and put in the inventory under the double letter KK, No. 37.

Item.—Another bundle containing fifty receipts or acquittances, by us classed, marked, &c.; we then put said bundle in the inventory under the double letter LL, No. 38.

Item.—A bundle containing three bills of exchange, supposed to be paid; these we classed and marked, and put in the inventory under the double letters MM, No. 39.

Item.—A bundle containing fourteen documents, valuing lands by approximation, and memoranda of moneys due the deceased; these we classed and marked, and the bundle was put in the inventory under the double letter NN, No. 40.

Item.—Another bundle containing thirteen valuations relating to the Carondelet canal; these we classed and marked in order, and the bundle was put in the inventory under the double letter OO, No. 41.

Item.—Another bundle containing five powers of attorney drawn by divers persons; which we classed and arranged in order, entering the bundle in the inventory under the double letter PP, No. 42.

Item.—Another bundle containing forty-four documents relating to the settlement of accounts with D. W. Coxe; these we classed and arranged, entering the bundle on the inventory under the double letter QQ, No. 43.

Item.—Another bundle containing seventy accounts settled or to be settled; these we classed and marked, and we inscribed the bundle on the inventory under the double letter RR, No. 44.

Item.—A bundle containing forty-nine letters, a correspondence with divers persons; these we classed and marked, and we entered the bundle in the inventory under the double letter SS, No. 45.

Item.—Another bundle containing forty-eight deeds of sale of lands on the bayou, made by the deceased Daniel Clark to divers persons; these we classed, marked, &c., and we inscribed the bundle in the inventory under the double letter TT, No. 46.

Item.—Another bundle containing nine deeds of sale in favor of Watkins; these we classed and marked, and we entered the bundle in the inventory under the double letter UU. No. 47.

Item.—Another bundle containing forty papers of reference; these we classed and marked; the bundle was entered in the inventory under the double letter VV, No. 48.

Item.—Another bundle containing fourteen plats and titles to property; these we classed and marked, and the bundle we entered on the inventory under the double letter WW, No. 49.

Item.—Another bundle containing thirty-five papers relating to the bayôu estate, which we classed and marked; the bundle we entered on the inventory under the double letter XX, No. 50.

Item.—Another bundle containing twenty-nine titles or guaranties to Ouachita letters; these we classed and marked, and the bundle was put in the inventory under the double letter YY, No. 51.

Item.—Another bundle containing twelve items relating to the Chapitoulas estate, which we classed and marked; the bundle was put in the inventory under the double letter ZZ, No. 52.

Item.—Another bundle containing thirteen papers relating to the estate purchased from Arnaud Magnan, which we classed and marked in order; the said bundle we entered in the inventory under the triple letter AAA, No. 53.

Item.—Another bundle containing seven papers relating to the lot of ground near the rope-walk; these we classed and marked in order, and we entered the bundle in the inventory under the triple letter BBB, No 54.

Item.—Another bundle containing transfers of lands purchased by D. Carlos Dehault de Lassus for Daniel Clark, at St. Louis, in September, 1804, and re-transferred by the said Lassus to Daniel Clark, at Brontin office in 1805; these we classed and marked in order; the bundle was inscribed on the inventory under the triple letter CCC, No. 55.

Item.—Another bundle containing two papers relative to the estate called the Dairy; these we classed and marked in order, and we inscribed said bundle in the inventory under the triple letter DDD, No. 56.

Item.—Another bundle containing two papers relating to the Atakapas lands purchased from the Macarty estate; these we classed and marked in order, and we entered the bundle in the inventory under the triple letter EEE, No. 57.

Item.—Another bundle consisting of two transfers of land on bayou Bœuf, made by William Welles and Alexander Fulton; these we classed and marked in order, and we entered the bundle in the inventory under the triple letter FFF, No. 58.

Item.—Another bundle containing five plats, guarantees, or transfers of three thousand two hundred arpens of land in Opelousas, purchased of Madam Larue Brunet; these we classed and marked in order, and we entered the bundle in the inventory under the triple letter GGG, No. 59.

Item. Another bundle containing six plats, guarantees to or transfers of sixteen hundred acres of land in Opelousas, purchased of Mr. Bronton; these we classed, marked, and entered on the inventory under the triple letter HHH, No. 60.

Item. Another bundle containing five plats, titles to or transfers of lands situated at Baton Rouge, south of the boundary line, the exclusive property of Daniel Clark; these we classed and marked in order; the said bundle we put in the inventory under the triple letter III, No. 61.

Item. Another bundle containing two titles to or plats of eleven "arpens" four "toises" fronting on the Mississippi, near and above Lafourche, purchased of Simon Ducourneau; these we classed and marked in order, and we inscribed the bundle on the inventory under the triple letter JJJ, No. 62.

Item. Another bundle containing two papers relative to the Fischer estate, à la terre au Bœufs; these we classed, marked in order, and we entered the bundle in the inventory under the triple letter KKK, No. 63.

Item. Another bundle containing four plats, transfers of, and guarantees to three thousand two hundred arpens of land in Opelousas, bought of Mr. Gradenigo; these we classed and marked in order, and we entered the said bundle under the triple letter LLL, No. 64.

Item. Another bundle containing four titles to land from Mr. Fletcher; these we classed and marked in order, and we entered the said bundle on the inventory under the triple letter MMM, No. 65.

Item. Another bundle containing thirty-three titles to different possessions; these we classed and marked in order, and we entered the said bundle in the inventory under the triple letter NNN, No. 66.

Item. Another bundle containing twenty-two items, papers of John Lucques; these we classed and marked in order, and we entered the said bundle in the inventory under the triple letter OOO, No. 67.

Item. A bundle containing six transactions with Mr. Barrow; these we classed and marked in order, and we entered the said bundle in the inventory under the triple letter PPP, No. 68.

Item. Another bundle containing twenty-five papers, establishing accounts with F. L. Claiborne; these we classed and marked in order, and we inscribed the said bundle on the inventory under the triple letter QQQ, No. 69.

Item. A book, a memorandum of lands held in partnership by the deceased, and Dr. William Coxe, of Philadelphia, containing twenty-seven written pages; this we classed and marked, and entered on the inventory under the triple letter RRR, No. 70.

Item. Another memorandum book of lands held in partnership by Dr. William Coxe, of Philadelphia, and the deceased, containing twenty written pages; this we marked and entered in the inventory under the triple letter SSS, No. 71.

Item. Another little book of accounts between the deceased and the late Dr. John Watkins, containing seven written pages; this we marked and entered in the inventory under triple letter TTT, No. 72.

The above were all the papers found in the aforesaid small trunk, and as the hour of adjournment is come, we, the beforesaid and undersigned register, with the consent of parties, have legalized the above, and have postponed further examination until to-morrow at six in the morning; after reading the preceding we have transferred the small trunk and its contents to the said Richard Relf, the testamentary executor, who charges himself with the same, and who signed with us

and the other parties and witnesses, on the day, month, and year as above, and we adjourned.

(Signed) MOREAU L'ISLET,
Representative of the absent heirs.
BLONDEAU,
PROSPER PRIEUR,
RICHARD RELF,
THOMAS BEALE, *Register.*

And to day, the twenty-seventh of the month of August, in the year of our Lord one thousand eight hundred and thirteen, and the thirty-eighth of the declaration of the independence of the United States of America, at four o'clock, we, Thomas Beale, register of wills for the city and parish of New Orleans, proceeded in our office, in the presence of all the parties and witnesses assembled, to select and classify the papers of the estate, which are enclosed in a trunk upon which was placed seal number two, which was recognised sound and intact by the said parties and witnesses; after which we proceeded as follows:

First. Sixty-three bundles, containing all together four thousand five hundred letters from divers persons; these we classed and marked from one to No. 63 included.

Item. Another bundle, containing one hundred and thirty-eight copies of letters, (correspondence with divers persons;) these we marked and put in the inventory as No. 64.

Item. Another bundle, containing seventy-seven papers relative to tobacco, in connexion with James Wilkinson; these we classed and put in the inventory under No. 65.

Item. Another bundle, containing ten papers relative to Walter Jones, which we classed and put in the inventory under No. 66.

Item. Another bundle, containing eight papers relative to Colonel Bellechasse, which we classed and put in the inventory under No. 67.

This is all that was found in the aforesaid trunk, upon which was placed seal No. 3; the seals being previously scrupulously examined and found intact, and acknowledged to be so.

First. Sixteen bundles, containing together four hundred and forty-two papers relative to divers matters, such as accounts, receipts, acquittances; these we classed and marked, and placed upon the inventory, from No. 68 to No. 83, included. And, as there were no other papers found in the aforesaid trunk, we, the aforesaid and undersigned register, legalized the above and handed over the above mentioned trunks to the said Richard Relf, testamentary executor, who charges himself with them, and who signed with us and the other parties and witnesses, on the same day, month, and year as above.

(Signed) MOREAU L'ISLET,
Representative of the absent heirs.
BLONDEAU,
PROSPER PRIEUR,
RICHARD RELF,
THOMAS BEALE, *Register.*

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And to day, the twenty-eighth of the month of August, in the year of our Lord one thousand eight hundred and thirteen, and of the independence of the United States of America the thirty-eighth, at ten o'clock in the morning, we, Thomas Beale, register of wills for the city and parish of New Orleans, went to the domicil on the Bayou road in which the late Daniel Clark died, in order to make out an inventory as to the description and value of the stock belonging to said estate. Here we met Richard Relf, testamentary executor of the said deceased; Louis Moreau L'Islet, lawyer appointed by the court to represent the absent heirs; in the presence of whom we administered the oath to the Messrs. Prosper Prieur and Sebastien Blondeau to faithfully perform the duties of appraisers of all that might be presented to them as belonging to the said inheritance; after which, in the presence of all, we proceeded as follows:

Animals.

First. A black cab horse, English blood, valued by the above named appraisers at the sum of one hundred dollars -	$100
Item. Twenty-three cows, average value twenty-four dollars; together, at five hundred and fifty-two dollars - -	552
Item. Five bulls, average value by the same appraisers eight dollars each; together, at forty dollars - - -	40
Item. Three yoke of oxen, average value per pair by the same appraisers thirty dollars; together, ninety dollars - -	90
Item. Twelve mules, average value by the same appraisers thirty dollars; together, three hundred and sixty dollars -	360
Item. A sorrel horse, English blood, valued by same appraisers at fifty dollars - - - - - -	50
Item. A Creole horse, valued by same appraisers at twenty dollars - - - - - - - -	20

These are all the animals presented to us to be put in the inventory as belonging to the estate of the said deceased Daniel Clark; and the above being read, we found that the total of the valuations made amounts to the sum of twelve hundred and forty-two dollars.

We left the said animals in charge of said Richard Relf, who acknowledges it, and signs with us and the other parties and witnesses, on the same day, month, and year as above. We then withdrew.

(Signed) MOREAU L'ISLET,
Representative of absent heirs.
BLONDEAU,
RICHARD RELF,
PROSPER PRIEUR,
THOMAS BEALE,
Register.

Sale of furniture.

And to day, the tenth day of the month of September, in the year

and the other parties and witnesses, on the day, month, and year as above, and we adjourned.

(Signed) MOREAU L'ISLET,
Representative of the absent heirs.
BLONDEAU,
PROSPER PRIEUR,
RICHARD RELF,
THOMAS BEALE, *Register.*

And to day, the twenty-seventh of the month of August, in the year of our Lord one thousand eight hundred and thirteen, and the thirty-eighth of the declaration of the independence of the United States of America, at four o'clock, we, Thomas Beale, register of wills for the city and parish of New Orleans, proceeded in our office, in the presence of all the parties and witnesses assembled, to select and classify the papers of the estate, which are enclosed in a trunk upon which was placed seal number two, which was recognised sound and intact by the said parties and witnesses; after which we proceeded as follows:

First. Sixty-three bundles, containing all together four thousand five hundred letters from divers persons; these we classed and marked from one to No. 63 included.

Item. Another bundle, containing one hundred and thirty-eight copies of letters, (correspondence with divers persons;) these we marked and put in the inventory as No. 64.

Item. Another bundle, containing seventy-seven papers relative to tobacco, in connexion with James Wilkinson; these we classed and put in the inventory under No. 65.

Item. Another bundle, containing ten papers relative to Walter Jones, which we classed and put in the inventory under No. 66.

Item. Another bundle, containing eight papers relative to Colonel Bellechasse, which we classed and put in the inventory under No. 67.

This is all that was found in the aforesaid trunk, upon which was placed seal No. 3; the seals being previously scrupulously examined and found intact, and acknowledged to be so.

First. Sixteen bundles, containing together four hundred and forty-two papers relative to divers matters, such as accounts, receipts, acquittances; these we classed and marked, and placed upon the inventory, from No. 68 to No. 83, included. And, as there were no other papers found in the aforesaid trunk, we, the aforesaid and undersigned register, legalized the above and handed over the above mentioned trunks to the said Richard Relf, testamentary executor, who charges himself with them, and who signed with us and the other parties and witnesses, on the same day, month, and year as above.

(Signed) MOREAU L'ISLET,
Representative of the absent heirs.
BLONDEAU,
PROSPER PRIEUR,
RICHARD RELF,
THOMAS BEALE, *Register.*

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And to day, the twenty-eighth of the month of August, in the year of our Lord one thousand eight hundred and thirteen, and of the independence of the United States of America the thirty-eighth, at ten o'clock in the morning, we, Thomas Beale, register of wills for the city and parish of New Orleans, went to the domicil on the Bayou road in which the late Daniel Clark died, in order to make out an inventory as to the description and value of the stock belonging to said estate. Here we met Richard Relf, testamentary executor of the said deceased; Louis Moreau L'Islet, lawyer appointed by the court to represent the absent heirs; in the presence of whom we administered the oath to the Messrs. Prosper Prieur and Sebastien Blondeau to faithfully perform the duties of appraisers of all that might be presented to them as belonging to the said inheritance; after which, in the presence of all, we proceeded as follows:

Animals.

First. A black cab horse, English blood, valued by the above named appraisers at the sum of one hundred dollars - $100
Item. Twenty-three cows, average value twenty-four dollars; together, at five hundred and fifty-two dollars - - 552
Item. Five bulls, average value by the same appraisers eight dollars each; together, at forty dollars - - - 40
Item. Three yoke of oxen, average value per pair by the same appraisers thirty dollars; together, ninety dollars - - 90
Item. Twelve mules, average value by the same appraisers thirty dollars; together, three hundred and sixty dollars - 360
Item. A sorrel horse, English blood, valued by same appraisers at fifty dollars - - - - - - 50
Item. A Creole horse, valued by same appraisers at twenty dollars - - - - - - - - 20

These are all the animals presented to us to be put in the inventory as belonging to the estate of the said deceased Daniel Clark; and the above being read, we found that the total of the valuations made amounts to the sum of twelve hundred and forty-two dollars.

We left the said animals in charge of said Richard Relf, who acknowledges it, and signs with us and the other parties and witnesses, on the same day, month, and year as above. We then withdrew.

(Signed) MOREAU L'ISLET,
Representative of absent heirs.
BLONDEAU,
RICHARD RELF,
PROSPER PRIEUR,
THOMAS BEALE,
Register.

Sale of furniture.

And to day, the tenth day of the month of September, in the year

of our Lord one thousand eight hundred and thirteen, and of the independence of the United States of America the thirty-eighth, at nine o'clock in the morning, we, Thomas Beale, register of wills for the city and parish of New Orleans, in virtue of the order of the honorable judge of probate of this city and parish, dated the twenty-seventh of August last, and after the advertisement prescribed by law, proceeded on the Bayou road to the domicil in which the late Daniel Clark died, in order to effect the sale of the moveables and animals belonging to said estate; here, in the presence of Richard Relf, testamentary executor of the deceased, Moreau de L'Islet, counsel named by the court to represent the absent heirs, and in the presence of the Messrs. Prosper Prieur and Sebastien Blondeau, witnesses living on the spot, proclaimed the sale in a loud and intelligible voice, on the following terms and conditions, to wit:

For all sums of and under one hundred dollars, cash; and for all sums exceeding one hundred dollars, a credit of sixty days; notes endorsed to satisfy the testamentary executor.

First, a high-post bedstead, of cherry wood, with three mattresses of Spanish moss and ticking, a bolster, two pillows, and an old musquito bar of muslin, trimmed, bought by Mr. Hilleborough for the sum of forty-nine dollars and fifty cents - - - - -	$49 50
Item. A small bureau, walnut wood, Mr. Dusuau Delacroix, twenty-eight dollars - - - -	28 00
Item. A small cherry table, M. Perillat, senior, two dollars and fifty cents - - - - -	2 50
Item. Another small folding table, cherry wood, Mr. Gourgon, six dollars and seventy-five cents - - -	6 75
Item. A wardrobe of yellow wood, Mr. Milleborough, fifty dollars - - - - - - -	50 00
Item. Twelve chairs, green wood, Mr. Milleborough, twenty-one dollars - - - - -	21 00
Item. Nine other chairs, wood, painted green, Mr. Riano, thirteen dollars - - - - - -	13 00
Item. A pair of holster pistols with holsters, Samuel Elkins, seventeen dollars - - - - -	17 00
Item. A dagger, silver mounted, M. Castaing, seven dollars - - - - - - -	7 00
Item. Sabre, silver mounted, M. Poultney, twenty dollars	20 00
Item. Two pairs of razors, with small looking glass, M. Paul Darcantel, three dollars and seventy-five cents -	3 75
Item. A set of porcelain, composed of twelve cups, eleven saucers, a tea pot, cream jug, a sugar bowl, and three plates, and a waiter painted red, M. Dusuau Delacroix, thirty-nine dollars - - - - -	39 00
	257 50
Amounting to	257 50

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Item. Another set of porcelain, consisting of twelve cups, twelve saucers, a coffee pot, a bowl, and three plates, with a waiter painted black, Mr. Ogden, forty dollars -	$40 00
Item. A porcelain pitcher and washbasin, Mr. Gros, twenty-one dollars - - - - - - -	21 00
Item. Two old card tables, cherry wood, M. Baran, eight dollars - - - - - - - -	8 00
Item. A folding table, cherry wood, M. Fleytas, ten dollars	10 00
Item. Case of mathematical instruments, M. Paul Darcantel, nine dollars and fifty cents - - - -	9 50
Item. Eighteen spoons and twelve forks, a soup ladle, sixteen coffee spoons, twenty-four cream spoons, and a sugar tongs, the whole of silver, weighing one hundred and twenty-eight ounces six grains, M. Poultney, one hundred and forty-three dollars - - -	143 00
Item. A gold watch, double case, Samuel Elkins, ninety-three dollars - - - - - -	93 00
Item. A broken set, blue china, M. Ogden, one hundred and eleven dollars - - - - -	111 00
Item. A piece of blue ratin, forty yards, 32 "annes" at $1 09 per anne, thirty-four dollars and eighty-eight cents, M. P. Guenon - - - - - -	34 88
Item. Nine other pieces of blue ratine, altogether 384 annes, at $1 06 per anne, four hundred and seven dollars and four cents - - - - - -	407 04
Item. A jar from Provence, M. Fortier, twenty-two dollars and fifty cents - - - - - -	22 50
Item. Another jar from Provence, M. Lacesne, twenty-two dollars and fifty cents - - - -	22 50
Item. Another jar from Provence, M. Fortier, twenty-three dollars - - - - - -	23 00
	$1,202 92
Being - - - -	1,202 92
Item. A filtering stone and jar, Lefévre, twelve dollars -	12 00
Item. A saddle, M. Lynd, nineteen dollars and fifty cents	19 50
	$1,234 42

The above is the whole of the furniture belonging to the estate.

LIBRARY.—First four volumes of the Spanish treasury, Mr. Edmond Forstall, seven dollars - - -	$7 00
Item. Eight vols. Roman History, (English,) Mr. Smith, eighteen dollars - - - - -	18 00
Item. Ten vols. Travels in North America, Mr. Dorfeuille, jr., twelve dollars - - - - -	12 00

Item. Eight vols. Miscellaneous works, Mr. James Shepherd, eighteen dollars - - - - - -	$18 00
Item. Six vols. Milton's works, Mr. William Ross, twelve dollars and fifty cents - - - - -	12 50
Item. Twenty-four vols. Swift's works, Samuel Elkins, forty dollars - - - - - -	40 00
Item. Twenty-four vols. Swift's works, Mr. Ellery, fifty-four dollars - - - - - -	54 00
Item. Twenty-five vols. Universal History, Mr. Curcullu, forty-five dollars - - - - -	45 00
Item. Seventeen vols. Shakespeare, Mr. Samuel Elkins, thirty-nine dollars - - - - -	39 00
Item. Three vols., miscellaneous, Mr. Poulteney, thirteen dollars - - - - - - -	13 00
Item. Twenty-four vols., miscellaneous, Mr. Sevallos, forty-four dollars - - - - -	44 00
Item. Four vols. Young Anacharsis, Mr. Dupuy, eleven dollars - - - - - - -	11 00
Item. Six vols. Memoirs of the Times of Louis 16th, Albin Michel, twelve dollars fifty cents - - -	12 50
	$318 00
Being - -	318 00
Item. Twenty vols. British Theatre, Mr. Smith, sixty-one dollars - - - - - -	$61 00
Item. Twenty-five volumes Nicholson's Chemistry, Wm. Ross, seventy-one dollars - - - -	71 00
Item. Four vols. Odyssey, (Greek,) Mr. Dupuy, seven dollars and fifty cents - - - - -	7 50
Item. Fourteen vols. different English works, M. Quertain, seventy-five dollars - - - -	75 00
Item. Five vols. Plutarch, (Greek,) Mr. Milleborough, six dollars and fifty cents - - - - -	6 50
Item. Eighteen vols. English Spectator, Samuel Elkins, thirty-one dollars - - - - -	31 00
Item. Seven vols. various works, M. Ellery, nine dollars and fifty cents - - - - - -	9 50
Item. Eight vols. various works, M. Poulteney, twenty dollars - - - - - - -	20 00
Item. Three vols. Tragedies, (Sophocles,) Latin translation, Mr. Allard, four dollars - - - -	4 00
Item. Fifty-four vols. English Encyclopedia, Mr. Clague, eighty-five dollars - - - - -	85 00
Item. Three vols. "Maison Rustique," François Duplessis, twenty-one dollars - - - -	21 00
Item. Six vols. various works in Greek, Mr. Allard, four dollars - - - - - - - -	4 00

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Item. Seven vols. Bacon's works, Mr. Ellery, thirty-one dollars	$31 00
Item. Three vols. Don Quixotte, (Spanish,) Simon Cucullu, seventeen dollars	17 00
Item. One vol. Lexicon Manual, (English,) Columbus Lawson, two dollars	2 00
Item. Eight vols. in Latin, Edmund Forstall, nine dollars	9 00
	772 50
Amounting	772 50
Item. Seven vols. various works, M. Maspero, ten dollars	10 00
Item. Thirteen vols. English poets, M. Fletcher, thirty-six dollars	36 00
Item. Four vols. of Virgil and Juvenal in Latin, Mr. Morel, eight dollars	8 00
Item. Five vols. various, Mr. Allard, seven dollars	7 00
Item. Nine vols. various works, M. Riane, seven dollars and fifty cents	7 50
Item. Three vols. various works, Mr. Ellery, seven dollars and fifty cents	7 50
Item. Eight vols. various works, Mr. Ogden, nineteen dollars	19 00
Item. Thirteen vols. various works, Mr. Morel, ten dollars	10 00
Item. Three vols. various works, Mr. Allard, three dollars	3 00
Item. Six vols. Pope's works, Columbus Lawson, six dollars	6 00
Item. Twelve vols. various Spanish works, Mr. Hernan, seven dollars and fifty cents	7 50
Item. Five vols. of Geographical and Commercial Dictionary, M. Dupuy, seventeen dollars	17 00
Item. Seven vols. various works, Mr. Relf, seven dollars	7 00
Item. Five vols. various works, Samuel Elkins, six dollars	6 00
Item. Six vols. Theatre d'Agriculture, M. Lecesne, eight dollars and fifty cents	8 50
Item. Five vols. Natural History, (Valmont de Beauman,) M. Darcantel, ten dollars and fifty cents	10 50
Item. Eight vols. various works, Mr. Elkins, five dollars and fifty cents	5 50
	$952 50
Amounting to	952 50
Item. An Atlas, Mr. Maspéro, sixteen dollars,	16 00
Item. Eleven vols. various works, C. Lawson, eleven dollars and thirty cents	11 30
Item. Seven vols. Travels in Italy, by Lalande, M. Garton, ten dollars	10 00
Item. Six vols. various works, M. Taulent, five dollars	5 00

Item. Three vols. various works, Mr. Ellery, three dollars and fifty cents	$3 50
Item. Three vols. in Spanish, Mr. Cucullu, four dollars	4 00
Item. Six vols. various works, Mr. Perrelat, sen'r, at ten dollars and fifty cents	10 50
Item. Seven vols. Moral Tales of Marmontel, Mr. Dupuy, seven dollars	7 00
Item. Thirty-seven vols. various works, M. Sevallos, twenty-two dollars	22 00
Item. Three vols. various works, Peter Pedesclaux, one dollar	1 00
Item. One vol. an English and Spanish Dictionary, M. Castaing, five dollars and fifty cents	5 50
Item. Two vols. an English and Italian dictionary, Columbus Lawson, four dollars and fifty cents	4 50
Item. Six vols. various works, Mr. Morel, three dollars	3 00
Item. 6 vols. various works, M. Clague, four dollars	4 00
Item. Seven vols. various works, Jacques Martin, two dollars and twenty-five cents	2 25
Item. Eight vols. various works, Mr. Lawson, five dollars	5 00
Item. Nineteen odd vols., Mr. Ellery, five dollars	5 00
Item. Two vols. miscellaneous, Mr. Poultney	3 50
	$1,075 25
Amounting to	1,075 25
Item. Two vols. miscellaneous, Mr. Morel, two dollars and fifty cents	2 50
Total value of library	$1,077 75

SHRUBBERY AND FLOWERS.

First, six pots of flowers, bought by Mr. Labosterie, two dollars	2 00
Item. Six pots flowers, Labosterie, one dollar and eighty-seven and a half cents	1 87½
Item. Six pots of flowers, M. Labosterie, three dollars and seventy-five cents	3 75
Item. Six pots of flowers, Joseph Abat, twelve dollars	12 00
Item. Six pots of flowers, M. Labosterie, six dollars and twelve and a half cents	6 12½
Item. Six pots of flowers, Honoré Landreaux, three dollars and thirty-seven and a half cents	3 37½
Item. Seven pots flowers, Mr. Labosterie, five dollars and twenty-five cents	5 25
Item. Nine pots or boxes of flowers, M. Labosterie, ten dollars and twenty-five cents	10 25

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Item. One agartrum, or rose myrtle bush, M. Guerlain, twenty-one dollars	$21 00
Item. One agartrum, or rose myrtle bush, with the box, M. Guerlain, twenty five dollars	25 00
Item. One lemon tree and box, Mr. Henderson, nine dollars	9 00
Item. Six pots of flowers, M. Lynd, five dollars	5 00
Item. Six pots of flowers, M. Lynd, five dollars	5 00
Item. Six pots of flowers, Mr. Ogden, three dollars	3 00
Item. Ten pots of flowers, Mr. Ogden, five dollars and twenty-five cents	5 25
	$117 87½
Item. A box of mignionette, M. Darcantel, twelve dollars and fifty cents	12 50
Items. Six pots of flowers, M. Roque, three dollars and fifty cents	3 50
Item. Five pots and a barrel of flowers, M. Henderson, ten dollars	10 00
Item. Twelve pots of flowers, M. Lind, eleven dollars and fifty cents	11 50
Item. An olive tree, M. Guerlain, five dollars	5 00
Item. Twenty-four flower pots, empty, sound, or cracked, Mr. Guerlain, seven dollars and fifty cents	7 50
Item. One mango plant, with box, Mr. Guerlain, four dollars and twenty-five cents	4 25
Item. One lemon tree, with box, M. Dupuy, ten dollars	10 00
Item. One "floripondio" plant, with box, Joseph Nicholas, five dollars and twenty-five cents	5 25
Item. One banana plant, with box, M. Lynd, seven dollars and fifty cents	7 50
Item. One "cachiman" plant, M. Darcantel, four dollars	4 00
Item. One lemon tree, with box, M. Roque	5 00
Item. Two plants of "pomellada," with box, M. Guerlain, four dollars	4 00
Item. One lemon tree, with box, M. Guerlain, twenty dollars	20 00
Item. One guava plant, with box, M. Dussuau de la Croix, sixteen dollars	16 00
Item. A shrub, name unknown, with box, M. Roque, eight dollars and twenty-five cents	8 25
Item. A banana plant, with box, M. Roque, six dollars	6 00
Item. A "floripondio" plant, with box, Mr. Roque, nine dollars and twenty-five cents	9 25
Item. Two pomellada plants, with boxes, Darcantel, eight dollars and fifty cents	8 50
Item. A small box of flowers, Mr. Darcantel, two dollars	2 00

Item. A lemon tree, with box, Mr. Darcantel, eight dollars and fifty cents - - - - -	$8 50
Item. Two "floripondio" plants, with their boxes, eight dollars - - - - - - -	8 00
Item. One bathing tub, M. Lynd, fifteen dollars - -	15 00
Total value of shrubs and flowers - -	$309 87½

Inasmuch as it is now past six o'clock, we, the aforesaid and undersigned register of wills, have legalized the above sale, and have adjourned the continuation until to-morrow at ten o'clock in the morning; of which fact we have given notice in a loud and intelligible voice. After reading the foregoing we found the proceeds of the sales of the house furniture to amount to the sum of twelve hundred and thirty-four dollars and ninety-two cents; the proceeds of the sale of the library to one thousand and seventy-seven dollars and seventy-five cents; and, finally, that of the shrubs and flowers to three hundred and nine dollars and eighty-seven cents and a half; which amount together to the sum of two thousand six hundred and twenty-two dollars and fifty-four cents and one-half. Which sum we have left at the disposal of Mr. Relf, testamentary executor, who receipts for the same, and who signs, with us, the other partners and witnesses, on the same day, month, and year, as above. We then withdrew.

(Signed) PROSPERE PRIEUX,
BLONDEAU,
RICHARD RELF,
MOREAU L'ISLET;
Counsel for the absent heirs.
THS. BEALE, *Register.*

Sale of stock.

To-day, on the eleventh of the month of September, in the year of our Lord one thousand eight hundred and thirteen, and of the independence of the United States of America the thirty-eighth, at ten o'clock in the morning, we, Thomas Beale, register of wills for the city and parish of New Orleans, repaired upon the Bayou road to the domicil in which late Daniel Clark died, to proceed with the continuation of the sale of the moveables belonging to the said estate; here, in the presence of Messrs. Richard Relf, testamentary executor, Louis Moreau L'Islet, the lawyer appointed by the court to represent the absent heirs, and in that of the Messrs. Prospere Prieur and Sebastien Blondeau, the witnesses summoned, announced the said sale on the following terms and conditions, viz: Cash for all sums not exceeding one hundred dollars, and a credit of sixty days, with notes of approved security, for all over one hundred dollars:

Animals.

First. A black cab horse, (English race,) bought by Mr. P. F. Dubourg, one hundred and thirty dollars -	$130 00
Item. A red cow and her calf, M. Milleborough, twenty-five dollars and twenty-five cents - - -	25 25
Item. Another red cow and her calf, M. Milleborough, twenty-two dollars - - - - - -	22 00
Item. A red cow and her calf, M. Darcantel, eighteen dollars - - - - - - -	18 00
Item. A red cow and her calf, M. Darcantel, sixteen dollars	16 00
Item. A black and white cow and her calf, M. Lechesne, seventeen dollars - - - - -	17 00
Item. A white cow and her calf, M. Baran, twenty dollars	20 00
Item. A brown cow with her calf, Jacques Guy Dreux, fifty-eight dollars - - - - -	58 00
Item. A brindle cow and her calf, M. Relf, fifty-four dollars	54 00
Item. A brown cow, about to calve, M. Cadet Dejean, forty-five dollars - - - - -	45 00
Item. Another red cow, without a calf, M. Coiron, twenty-eight dollars - - - - - -	28 00
Item. A black cow, without a calf, M. Cadet Dejean, twenty-two dollars - - - - -	22 00
Item. A red roan cow, without a calf, M. Coiron, twenty-five dollars - - - - - - -	25 00
Item. A cream colored cow, without a calf, M. Cadet Dejean, twenty-five dollars - - - - -	25 00
	505 25
Item. A red polled cow, without a calf, Louis Seré, forty-three dollars - - - - - - -	43 00
Item. A red cow, without a calf, M. Lecesne, nineteen dollars - - - - - - - -	19 00
Item. A cow, without a calf, Lecesne, twenty-eight dollars - - - - - - - -	28 00
Item. A black cow, wilhout a calf, M. Bonnefoy, seventeen dollars - - - - - - -	17 00
Item. A red cow, without a calf, M. Relf, twenty-six dollars - - - - - - - -	26 00
Item. A cream colored cow, without a calf, M. Cadet Dejean, thirty-five dollars - - - - -	35 00
Item. A cow, with a white back, without a calf, M. Darcantel, thirteen dollars - - - - -	13 00
Item. A cream colored cow, without a calf, M. Cadet Dejean, fifteen dollars - - - - - -	15 00
Item. A red cow, without a calf, M. Coiron, sixteen dollars	16 00
Item. A cream colored cow, M. Hopkins, eighteen dollars	18 00

Item. A young red heifer, M. Coiron, thirteen dollars -	$13 00
Item. A young red heifer, M. Fleytas, nine dollars -	9 00
Item. A young red heifer, Peter Guenon, seven dollars and fifty cents - - - - - - -	7 50
Item. Two small bulls, M. Blanc, twenty dollars -	20 00
Item. A pair of oxen, M. Lecesne, thirty-six dollars -	36 00
Item. A pair of oxen, M. Lecesne, thirty-seven dollars -	37 00
Item. A pair of oxen, M. Lecesne, twenty-nine dollars -	29 00
Item. Two mules, M. Cadet Dejean, eighty dollars -	80 00
Item. Two mules, M. Coiron, ninety-four dollars -	94 00
Item. Two mules, Madame Faisandieu, sixty dollars -	60 00
	1,120 75
Item. Two mules, M. Coiron, sixty-one dollars - -	61 00
Item. Two mules, Madame Faisandieu, fifty-three dollars	53 00
Item. Two mules, M. Coiron, seventy-five dollars -	75 00
Item. A sorrel horse, English blood, M. Lecesne, sixty dollars - - - - - - - -	60 00
Item. A creole horse, M. Lecesne, thirty-two dollars -	32 00
Item. A mouse-colored horse, Charles Ducoudreau, twenty dollars - - - - - -	20 00
	$1,421 75

And as no other animals were presented for sale to us, as belonging to the estate of the said deceased Daniel Clark, we, the aforesaid and undersigned register, legalized the above; and this act being read, we found the proceeds of the animals sold to amount to the sum of fourteen hundred dollars and seventy-five cents, which we have left to the disposition of Mr. Relf, who charges himself with it, and who signs with us, and the other parties and witnesses, on the same day, month, and year as above. We then withdrew.

Signed,

BLONDEAU,
MOREAU L'ISLET,
Counsel for absent heirs.
PROSPERE PRIEUR,
RICHARD RELF,
THOMAS BEALE,
Register of wills.

Inventory of the Chapitoulas Estate.

To-day, the twenty-eighth of the month of September, in the year of our Lord one thousand eight hundred and thirteen, and of the independence of the United States of America the thirty-eighth, at four o'clock in the morning, we, Thomas Beale, register of wills for the city and parish of New Orleans, repaired to a plantation, the property of the late Daniel Clark, situated six leagues above this city, on the same side of the river, on the coast of Chapitoulas, in order to continue the inventory as to description and value of the property left by the

said late Daniel Clark. On our arrival we met the Sieur Richard Relf, testamentary executor; L. Moreau L'Islet, the advocate appointed by the court to represent the absent heiress; and in their presence we administered the oath to Messrs. P. Baron Boisfontaine and L'Isle Sarpy, the appraisers named by the testamentary executor, to acquit themselves faithfully of their trust, in valuing all that might be presented to them, as belonging to said estate.

After which, all being present, we proceeded as follows:

Moveables and furniture.

First, six chairs valued by the said appraisers at six dollars	$6 00
Item. One mattress, five dollars	5 00
Item. Two bedsteads, six dollars	6 00
Item. Two tables, three dollars	3 00
Item. Two medicine chests, twenty dollars	20 00
Item. Two pairs of andirons, ten dollars	10 00
Item. One water jar, twelve dollars	12 00
Item. Two pairs of sheets, ten dollars	10 00
Item. One kitchen range, twenty-five dollars	25 00

Agricultural implements.

Fourteen ploughs valued by the said appraisers at two hundred and ten dollars	210 00
Item. Two mould boards, twenty dollars	20 00
Item. Two large harrows, ten dollars	10 00
Item. Four cultivators, twelve dollars	12 00
Item. Eeight small carts, two hundred and eighty dollars	280 00
Item. Two wheelbarrows, five dollars	5 00
Item. Fifty hoes, fifty dollars	50 00
Item. Fifteen spades, twenty five dollars	25 00
Item. A set of blacksmith's tools, two hundred dollars	200 00
Item. Thirty hatchets, forty-five dollars	45 00
	$954 00
Item. Two ———, valued at two dollars	$2 00

Animals.

Item. Twelve yoke of oxen, at $40 per oxen	$480 00
Item. Twenty-four mules, fourteen hundred and forty dollars	1,440 00
Item. Five horses, fifty dollars each	250 00
Item. Fifteen cows, at twenty-five dollars each	375 00
Item. Seven yearling steers, eight dollars each	56 00
Item. Eight calves, five dollars each	40 00
Item. Two bulls, ten dollars each	20 00
Item. Sixty-four sheep, four dollars each	256 00
	$3,873 00

The above were all the moveables, agricultural instruments, and animals found upon the said estate.

Slaves.

First. Doctor, negro, aged fifty, valued at two hundred and fifty dollars	$250 00
Item. Hector, negro, aged twenty-seven years, valued at five hundred dollars	500 00
Item. January, negro, aged sixty, sixty dollars	60 00
Item. William, negro, thirty, seven hundred dollars	700 00
Item. Stuard, negro, thirty-five, four hundred dollars	400 00
Item. Jem, negro, twenty-seven, six hundred and fifty dollars	650 00
	$2,560 00
Item. Kersey, negro, blind, forty years; not valued, but inserted here merely by way of memorandum.	
Item. Morice, negro, thirty, three hundred dollars	300 00
Item. Kett, negro, forty-five, two hundred and fifty dollars	250 00
Item. Brown, negro, sixty-six, sixty dollars	60 00
Item. John, negro, thirty-three, seven hundred dollars	700 00
Item. Wing, negress, with her child David, one year old, four hundred and fifty dollars	450 00
Item. Old Esther, negress, sixty, two hundred dollars	200 00
Item. Billy, negro, six, one hundred dollars	100 00
Item. Anna, negress, twenty, four hundred and fifty dollars	450 00
Item. James M'Call, negro, twenty-three, six hundred dollars	600 00
Item. Phil, negro, twelve, four hundred dollars,	400 00
Item. Betty, negress, with her child Amy, six months old, four hundred and fifty dollars	450 00
Item. Monthon, negro, fifty, four hundred dollars	400 00
Item. Esther, thirty-five, four hundred dollars	400 00
Item. Morning, negress, fourteen, three hundred dollars	300 00
Item. Sam, negro, forty-five, five hundred dollars	500 00
Item. Old Kate, negress, fifty, two hundred dollars	200 00
	$8,370 00
Item. Grace, girl, ten, three hundred dollars	300 00
Item. Elijah, boy, ten, four hundred dollars	400 00
Item. James, negro, thirty, seven hundred dollars	700 00
Item. Rose, negress, thirty, and her infant, Dan, one year old, four hundred and fifty dollars	450 00
Item. Anna, negress, thirty, three hundred and fifty dollars	350 00

Item. Bird, negro, fifteen, four hundred dollars	$400 00
Item. Patty, negro boy, thirteen, three hundred dollars	300 00
Item. Lawrence, negro carpenter, thirty-five, seven hundred dollars	700 00
Item. Franky, negro, thirty, four hundred dollars	400 00
Item. John, negro boy, ten, three hundred dollars	300 00
Item. Charles, negro boy, seven, two hundred dollars	200 00
Item. McKinsy, negro boy, five years, one hundred dollars	100 00
Item. Margaret, girl, three years, one hundred dollars	100 00
Item. Fanny, negress, twenty-five, and Mary, her infant, one year old, four hundred and fifty dollars	450 00
Item. Nelson, boy, nine years, two hundred and fifty dollars	250 00
Item. Major, boy, seven years, one hundred and fifty dollars	150 00
Item. Waimy, negress, twenty-six, and her three children, Heleck, five years, Bouky, four, and Maria, two years old, seven hundred dollars	700 00
Item. Spencer, negro, forty-seven, six hundred dollars	600 00
Item. Themar, negress, twenty-five, four hundred and fifty dollars	450 00
	$15,670 00
Item. Old Major, so old and infirm as to be entered merely as a memorandum.	
Item. Darky, negro, thirty, rheumatic, one hundred dollars	100 00
Item. Doriana Smith, sixteen, two hundred and fifty dollars	250 00
Item. Cambridge, negro, forty, four hundred and fifty dollars	450 00
Item. Rachael, negress, twenty-six, four hundred and fifty dollars	450 00
Item. St. Wenny, twenty years of age, four hundred and fifty dollars	450 00
Item. Sarah, negress, twenty-six years, five hundred dollars	500 00
Item. Judith, mulatto woman, twenty-seven, four hundred and fifty dollars	450 00
Item. Polly, negress, twenty-seven, four hundred and fifty dollars	450 00
Item. Fanny, negress, twenty-two, five hundred dollars	500 00
Item. Nace, negro, thirty-six, six hundred dollars	600 00
Item. Kery, negress, twelve, three hundred and fifty dollars	350 00
Item. Tom, boy, eight, three hundred and fifty dollars	350 00
Item. Nany, negress, eighteen, four hundred and fifty dollars	440 00
	$21,770 00

Item. Washington, negro, twenty-five years, crippled in one hand, three hundred dollars	$300 00
Item. Kitty, negress, twenty years, with her child some four months old, four hundred dollars	400 00
Item. Betty, negress, twenty-six, four hundred dollars	400 00
Item. George, negro, forty, six hundred dollars	600 00
Item. Old Rachel, fifty, three hundred dollars	300 00
Item. Dina, negress, sixty years, one hundred and fifty dollars	150 00
Item. Dave, boy, five years, one hundred and fifty dollars	150 00
Item. Levy, boy, five years, one hundred dollars	100 00
Item. Anthony, negro, seventy years, fifty dollars	50 00
Item. Rachel, negress, sixteen, four hundred dollars	400 00
Item. Charlotte, negress, sixteen, three hundred and fifty dollars	350 00
Item. Waldrin, negro, fifteen, four hundred dollars	400 00
Item. Patianne, negress, thirteen, three hundred and fifty dollars	350 00
Item. Sukey, negress, thirteen, three hundred and fifty dollars	350 00
Item. Lidly, forty years, four hundred dollars	400 00
Item. Maimy, negress, fifteen, four hundred dollars	400 00
Item. Jukey, thirteen, three hundred and fifty dollars	350 00
	$27,220 00
Item. Nelly, girl, three years, one hundred and fifty dollars	150 00
Item. Betsey, girl, ten years, three hundred dollars	300 00
Item. Ben, negro, twenty-six, five hundreddollars	500 00
Item. Jenny, negress, twenty-six, four hundred and fifty dollars	450 00
Item. Kelly, girl, five, one hundred and fifty dollars	150 00
Item. Henrietta, girl, eight, two hundred and fifty dollars	250 00
Item. Bob, quadroon, sixteen, three hundred dollars	300 00
Item. Eley, negro, thirty-nine, as he has an ulcer, valued at one hundred dollars only	100 00
Item. Kitty, negress, seventeen years, four hundred dollars	400 00
Item. Peggy, negress, forty, four hundred dollars	400 00
Item Hortas, negro, twelve, four hundred and fifty dollars	450 00
Item. Thomas, thirty, valued at two hundred and fifty dollars only, as he has the gravel	250 00
Item. Sally, negress, sixteen, five hundred dollars	500 00
Item. Ritty, mulatto woman, fifteen, four hundred dollars	400 00
Item. Anny, negro, thirty-five, two hundred dollars	200 00
Item. Williams, boy, two years old, fifty dollars	50 00
Item. Ben, blacksmith, fifty, five hundred and fifty dollars	550 00
	$32,870 00
Item. Anny, negress, thirty, four hundred dollars	400 00

Item.	Raily, negress, twenty-four, five hundred dollars			$500 00
Item.	Jenny, weaver, thirty-nine, five hundred dollars			500 00
Item.	James, negro, fifteen, four hundred dollars			400 00
Item.	Rachael, negress, thirty, three hundred and fifty dollars			350 00
Item.	Jack, twenty-six, six hundred dollars			600 00
Item.	Mary, thirty, five hundred dollars			500 00
Item.	Joe, fifteen, five hundred dollars			500 00
Item.	Sukey, twelve, three hundred and fifty dollars			350 00
Item.	Victoire,	10 years, $300		300 00
"	Joe, mulatto,	16 " 400		400 00
"	Rachael,	15 " 500		500 00
"	Piggy,	10 " 300		300 00
"	James Harris,	36 " 500		500 00
"	Rachel,	25 " 400		400 00
"	George,	8 " 250		250 00
"	James,	10 " 100		100 00
"	Champagne,	50		50 00
"	Rose,	25 " 400		400 00
				$39,670 00
"	Aimy,	5 " 100		100 00
"	Thom,	1 " 50		50 00
"	Zago,	15 " 400		400 00
"	Peter,	50 " 450		450 00
"	Mary,	39 " 250		250 00
"	Deck,	40 " 300		300 00
"	Chloe,	35 " 300		300 00
"	James,	50 " 300		300 00
"	Mary,	50 " 150		150 00
"	Nelly,	30, and son Daniel 2 years, $350		350 00
"	Darkey,	25 years, $400		400 00
"	Daniel,	6 " 150		150 00
"	Louis,	5 " 100		100 00
"	Sally,	3 months, 50		50 00
"	Luke,	30 years, 500		500 00
"	George,	10 " 300		300 00
"	Peggy,	22 " 150		150 00
"	Yob,	9 " 300		300 00
"	Jack,	18 " 600		600 00
"	Nathon,	28 " 450		450 00
"	Yaby,	30 " 300		300 00
"	Geoffrey,	11 " 350		350 00
"	Phil,	40 " 500		500 00
"	David,	12 " 300		300 00
"	David,	– 300		300 00
"	James Sheling,	31 years, idiotic, $50		50 00
"	Lucy Morrow,	40 " 400		400 00
"	George,	10 " 200		200 00

Item.	Rose,	aged 27 years, with Rob her infant, valued at $350 -		$350 00
	Rosette,	24 "	450 - -	450 00
	Hannah,	26 "	300 - -	300 00
	Judith,	28 "	400 - -	400 00
	Kitty,	26 "	350 - -	350 00
	Silva,	22 "	450 - -	450 00
	Kitty,	25 "	350 - -	350 00
	Julia,	23 " with her three children, John, aged 7; Quako, aged 5; and Jenny, aged 3; all valued at		750 00
				$41,120 00
Item.	Louisa,	aged 13, valued at $450 -	-	450 00
	Little Jim,	" 11, 400 -	-	400 00
	Jerry, mulatto,	" 16, 400 .	-	400 00
				$42,370 00

The above are all the negroes presented to us belonging to the estate of the late Daniel Clark.

Plantation.—Item. The plantation upon which we now are, having a front on the river of twenty-four acres and a half, running to the lake, bounded on one side by Mr. Cadet Fortier, and on the other by a William Kenner. Upon the plantation are the following buildings, provisions, and crops:

Buildings.—A refinery, a small house for proprietor, eighty negro cabins, a pigeon house, and a small blacksmith shop.

Provision.—A thousand bushels of corn.

Crops.—Fifty acres planted in cane; the whole of said plantation, buildings, crop, and provisions are valued by the same appraisers at $50,000. And as nothing more was presented to us as belonging to said estate, we, the aforesaid and undersigned register, have legalized the foregoing at six o'clock; and after reading the foregoing, we found the valuation of the moveables, animals, &c., to amount to $3,830; that of the sixty five slaves, of every sex and age, to $52,077; and lastly, the above described plantation to $50,000.

The whole amounting to $106,643; the which furniture, moveables, animals, slaves, and plantation, we charged to the said Richard Relf, testamentary executor, who acknowledges the same, and who signs with us and the other parties and witnesses, on the same day, month, and year as above. We then retired.

(Signed) MOREAU L'ISLET,
Representative of the absent heirs.
RICHARD RELF,
L'ILLE SARPY,
THOMAS BEALE,
Register of Wills.

1807.

And to day, the fourth of October, in the year of our Lord one thousand eight hundred and thirteen, and of the independence of the United States of America the thirty-eighth, at ten in the morning, we, Thomas Beale, register of wills for the city and parish of New Orleans, went to the coffee-house of the new Exchange to sell to he highest bidder the slaves belonging to the estate of the late Daniel Clark. Being there, we met Richard Relf, the testamentary executor of the deceased, Louis Moreau L'Islet, the lawyer named by the court to represent the absent heirs, and in their presence and in that of Messrs. Prospere Prieur and Sebastien Blondeau, proclaimed the said sale on the following terms and conditions:

The conditions of the sale are, six months' credit, notes endorsed to satisfy the executor, and a special mortgage until paid in full.

First.	Sam Harris, Rachael, George, Jacques, and Champion, aged, respectively, 26, 25, 8, 6, and 1 years; Mr. Soniat Dufossat for twelve hundred and sixty dollars -	$1,260 00
Item.	Lago, aged 15; M. Blanque - - -	400 00
"	Darkey, aged 25, with her three children: Daniel, aged 6; Lewis, 5; and Sally, 3 months; M. Augustin Massicot - - - -	790 00
"	Mary, aged 35; Montegat, the son - -	310 00
"	David, " 12; François Juillet - -	410 00
"	David, " 12; M. Beaulieu - - -	315 00
"	Hannah, aged 30, with her two children: Bird, 15 years old; and Patty, 13; M. Dupuy - -	1,260 00
"	Polly, aged 27; M. Denreu - - -	460 00
"	Fanny, " 22; M. Soniat Dufossat - -	500 00
"	Betty, " 20, with her infant; M. Morand -	495 00
		$5,645 00
Item.	Old Rachael, aged 50; Samuel Elkins - -	260 00
"	Rachael, " 16; Dumas, son - -	415 00
"	Waldron, " 15; M. Sagon - -	500 00
"	Jenny, " 26, with her two children; Mr. Fortier - - - - - -	850 00
"	Suckey, " 13; Lachataignerais - -	395 00
"	Ben, " 50, and Amy, 30; M. Verloins,	950 00
Item.	Peggey, negress, aged 10 years, adjudged to Mr. Bruslé, for the sum of three hundred and sixty-five dollars - - - - - - - -	$365 00
Item.	Eliza and her child, adjudged to M. François Labane, for the sum of six hundred and ninety dollars. -	690 00
Item.	Isaac, mulatto, aged about 18 years, adjudged to M. Celestin Aran, for the sum of five hundred and twenty dollars - - - - - -	520 00
		$11,145 00

And seeing that many other slaves have been exposed for sale, and that they have not brought the estimated price, that it is two o'clock in the afternoon, and but few bidders, we, the above mentioned and undersigned register, have, by the consent of the parties, postponed the sale until to-morrow, at ten o'clock, of which we have informed the public in a distinct and intelligible voice, and after having examined the present, we have found the amount of the sale to be eleven thousand one hundred and forty-five dollars, which we have left at the disposition of Richard Relf, testamentary executor of the deceased, who acknowledged it, charged himself with it, and signed with us and the other parties and witnesses, the same day, month, and year as above, and we retired.

(Signed) RICHARD RELF,
MOREAU L'ISLET,
Defender of the absent heirs.
PROSPER PRIEUR,
BLONDEAU,
THOS. BEALE,
Register of Wills.

Re-appraisement of the slaves.

And to-day, the fifth day of the month of October, of the year of our Lord one thousand eight hundred and thirteen, and the thirty-eighth of the independence of the United States of America, in virtue of the order of the honorable James Pitot, judge of the court of probates for the city and parish of New Orleans, we, Thomas Beale, register of wills for the city and parish, proceeded to a new appraisment of the negroes arising from the succession of the late Daniel Clark, and that in presence of Richard Relf, testamentary executor, Louis Moreau L'Islet, advocate appointed by the court to represent the absent heirs, and by the agent of Messrs. Dusuau de la Croix, Chevalier Macarty, and P. Baron Boisfontaine, appraisers chosen by the testamentary executor, who have received from us the oath to comport themselves well and faithfully in the discharge of their duties, and have, in presence of all, proceeded as follows:

Firstly, Toby, negro, aged thirty years, with Jeffry, aged eleven years, estimated together, by the same, at the sum of six hundred dollars - - - - $600 00

Item. Molly, negress, aged forty-six years, with her three children, Nancy, negress, aged eighteen years; Kery, aged twelve years, and Tom, aged eight years, estimated by the same at the sum of fourteen hundred dollars - - - - - - - - - 1,400 00

Item. Nancy, negress, aged eighteen years, estimated by the same at the sum of four hundred dollars - - 400 00

Item. Dina, negress, aged sixty years, with James, her child, aged fifteen years, estimated by the same at the sum of five hundred dollars - - - - 500 00

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Item. Charlotte, negress, aged sixteen years, estimated by the same at the sum of three hundred dollars - - $300 00

Item. Kitty, negress, aged seventeen years, estimated by the same at the sum of three hundred and eighty dollars 380 00

Item. Peggy, negress, aged forty years, with her child, named Jerry, aged ten years, estimated by the same at the sum of seven hundred dollars - - - 700 00

Item. Arthur, negro, aged twelve years, estimated by the same at the sum of four hundred dollars - - 400 00

Item. Sally, aged sixteen years, and Kitty, aged fifteen years, estimated by the same at the sum of eight hundred dollars - - - - - - - 800 00

Item. Rady, negress, aged twenty years, estimated by the same at the sum of four hundred dollars - - 400 00

Item. Rachel, negress, aged thirty years, estimated by the same at the sum of three hundred dollars - - 300 00

Item. Liddy, negress, aged forty years, with her five children, named Mimy, aged fifteen years, Sukey, aged thirteen years, Betsy, aged ten years, Edmond, aged seven years, and Nelly, aged three years, estimated by the same at the sum of sixteen hundred dollars - - 1,600 00

And, seeing that there were no other slaves to be valued, we, the above mentioned and undersigned register, have closed and arrested the present; and, after having read it, we have found the amount of the re-valuation to be the sum of eight thousand one hundred and eighty dollars; and the parties, appraisers, and witnesses, have signed with us the same day, month, and year as above.

(Signed) MOREAU L'ISLET,
Defender of the absent heirs.
BLONDEAU,
PROSPER PRIEUR,
RICHARD RELF,
THOMAS BEALE, *Register.*

And this day, the fifth day of the month of October, of the year of our Lord one thousand eight hundred and thirteen, and the thirty-eighth of the independence of the United States of America, at ten o'clock, a. m., we, Thomas Beale, register of wills for the city and parish of New Orleans, went to the café of the new Exchange for the purpose of continuing the sale of slaves arising from the succession of the late said Daniel Clark; where, being in the presence of Richard Relf, testamentary executor of the said deceased, Louis Moreau L'Islet, advocate appointed by the court to represent the absent heirs, and in that of Prosper Prieur and Sebastien Blondeau, witnesses, by us summoned, proclaimed the above mentioned sale in the same terms and condition above announced.

Firstly. Toby, aged thirty years, and Jeffry, aged eleven years, adjudged to Mr. John Trudeau for the sum of six hundred and five dollars - - - - - - - - $605 00

Item. Molly, negress, aged forty-six years, with her three children, named Nancy, aged eighteen years, Kery, aged twelve years, and Tom, aged eight years, adjudged to Mr. Celestin Avare for the sum of fourteen hundred dollars - - - - - - - - 1,400 00

Item. Nancy, negress, aged eighteen years, adjudged to Mr. Bonnefoi, for the sum of four hundred and fifteen dollars - - - - - - - - 415 00

Item. Dina, negress, aged sixty years, with James, aged fifteen years, adjudged together to Mr. James Nado, for the sum of five hundred dollars - - - - - 500 00

Item. Charlotte, aged sixteen years, adjudged to Mr. Lecenne, for the sum of three hundred dollars - - 300 00

Item. Betty, negress, aged seventeen years, adjudged to Mr. Deyroud for the sum of three hundred and eighty dollars 380 00

Item. Peggy, negress, aged forty years, with her child, named Jerry, aged ten years, adjudged to Mr. Edmund Macarty, for the sum of seven hundred dollars - - 700 00

Item. Arthur, a little negro, aged twelve years, adjudged to Mr. Jaublanc, for the sum of four hundred dollars - 400 00

Item. Sally, aged sixteen years, and Kitty, aged fifteen years, adjudged to Mr. Labarre, for the sum of eight hundred and thirty-five dollars - - - - - 835 00

Item. Ready, negress, aged twenty-four years, adjudged to Mr. Verbois, for the sum of four hundred and twenty-five dollars - - - - - - - 425 00

Item. Rachel, negress, aged thirty years, adjudged to Mr. Thomas Beale, for the sum of four hundred and thirty dollars - - - - - - - - 430 00

Item. Lidley, negress, aged forty years, with her five children, named Mimy, aged five years; Sukey, aged thirteen years; Betsey, aged ten years; Edmund, aged seven years, and Nelly, aged three years, adjudged together to Madame Louis Trudeau, widow, for the sum of seventeen hundred and five dollars - - - - - 1705 00

Item. Patience, negress, aged thirteen years, adjudged to Mr. Pascalis, for the sum of three hundred and fifty dollars - - - - - - - - 350 00

Item. Ruff, Jerry, and William, adjudged to Mr. Macarty, for the sum of six hundred and fifty dollars - - 650 00

Item. Nelly, and her child, adjudged to Mr. Kirby, for the sum of three hundred and fifty dollars - - - 350 00

And seeing that there are no more slaves found to be sold, arising from the succession of the late Daniel Clark, we, above mentioned and undersigned register, have closed and arrested the present, and

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having read it, we have found the amount of the sale made to be the sum of nine thousand seven hundred and eighty-five dollars, which has been left to the disposition of the said Richard Relf, testamentary executor, who acknowledges it, charges it to himself, and has signed with us and our witnesses, the same day, month, and year above mentioned, and we retired.

BLONDEAU.
PROSPER PRIEUR.
RICHARD RELF.
THOMAS BEALL,
Register.

And this day, the twenty-seventh day of the month of January, in the year of our Lord one thousand eight hundred and fourteen, and the thirty-eighth of the independence of the United States of America, at noon, we, Thomas Beale, register of wills for the city and parish of New Orleans, went to the café of the new Exchange for the purpose of proceeding in the sale of a number of negroes, arising from the succession of the late Daniel Clark; where being, we found Richard Relf, one of the testamentary executors of the deceased, Louis Moreau L'Islet, advocate appointed by the court to represent the absent heirs; and have in their presence, and in that of Prospere Prieur and Sebastien Blondeau, proclaimed the above mentioned sale in a loud and intelligible voice, in the following terms and conditions, to wit, six months' credit allowed on bills endorsed to the satisfaction of the testamentary executor, with special hypothecation until full payment.

And after having successively exposed for sale all the divers negroes arising from the succession of the late Daniel Clark, we, the above mentioned and undersigned register, have withdrawn them all by the consent of the parties, as it appears that they would not bring the estimated price; and the parties and witnesses signed with us after reading had, the same day, month, and year, as above; and we retired.

RICHARD RELF,
PROSPERE PRIEUR,
BLONDEAU.

This day, the sixteenth day of the month of August, in the year of our Lord one thousand eight hundred and thirteen, the thirty-eighth of American independence, I, Gallien Preval, one of the judges of the peace for the city and parish of New Orleans, being found present at the decease of Daniel Clark, this day, at 10 o'clock, p. m., have been required by Mr. Richard Relf to affix seals upon all the papers belonging to the succession of the said Daniel Clark, to which we have proceeded, in presence of Mr. James Pitot and F. Dussuau Delacroix. The said Richard Relf having been required by us to present the papers of the said succession, conducted us to the chamber of the said deceased where, in presence of the above mentioned witnesses, we collected all the above mentioned papers, and placed them in a bureau, and an invoice that we found in the chamber of the said deceased; after

which we affixed our seals on the doors of the said chamber, and placed as guard Francisco Morales, who has promised, under oath, to fulfil well and faithfully the duties of his charge, and has signed with us, as well as the witnesses above mentioned, the same day, month, and year above mentioned.

Signed, FRANCISCO his ⋈ mark. MORALES.

At the moment of closing the present procès verbal, Richard Relf having found in the trunk of the deceased his olographic will, we took it and in presence of the above mentioned witnesses, to present to the honorable judge of the court of probates.

Signed, J. PITOT,
GALLIEN PREVAL,
Judge of the peace.

DUSUAU DELACROIX,
RICHARD RELF.

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SUPREME COURT OF THE UNITED STATES.

DECEMBER TERM, 1852.

EX PARTE: IN THE MATTER OF

THOMAS KAINE, AN ALLEGED FUGITIVE FROM GREAT BRITAIN.

RICHARD BUSTEED, ESQUIRE, COUNSEL FOR THE PETITIONER.

CHARLES EDWARDS, ESQUIRE, COUNSEL FOR THE BRITISH GOVERNMENT, CLAIMANT.

ON HABEAS CORPUS ALLOWED BY THE HONORABLE SAMUEL NELSON, AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE U. S.

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IN RE THOMAS KAIN.

AFFIDAVIT AND SCHEDULES.

"Read before me on the return to the writ of habeas corpus, Aug. 11, 1852.

"S. NELSON."

In the matter of Thomas Kane, a fugitive from justice.

CITY AND COUNTY OF NEW YORK, *ss:*

Charles Edwards, of New York, attorney and counsellor at law, being sworn, maketh oath and saith, that he was retained by the British Government in this matter; that, with the knowledge and by the approval of John F. Crampton, esquire, envoy extraordinary and minister plenipotentiary to Her Britannic Majesty, a requisition or complaint, for the surrender and delivering up of the said Thomas Kane, charged with the crime of assault, with the intent to commit murder, in the county of Westmeath, Ireland, was made out, of which a copy is contained in schedule A, hereto annexed; that Anthony Barclay, esquire, H. B. M.'s consul at the port of New York, was more particularly employed, not only (as deponent knows) by the direct authority of the said minister, Mr. Crampton, but also because the alleged fugitive was believed to be seeking an asylum in or near New York, and an officer of the Irish constabulary, who was able to identify the fugitive, had been sent to Mr. Barclay, with letters from the British Home department, to act in the premises.

That, on or about the fourteenth day of June, now last past, (1852,) this deponent placed the said requisition in the hands of George W. Morton, esquire, clerk of the district court of the United States, for the southern district of New York, and, thereunder, a warrant, under the hand and seal of Joseph Bridgham, esquire, one of the commissioners appointed by the circuit court of the United States, for the southern district of New York, was delivered to the marshal of the United States, for the said southern district, under which, by his deputies and within such district, he caused the said fugitive, Thomas Kain, to be apprehended and brought to the court-house of the said court; and on the seventeenth day of the said month of June, (1852,) in one of the public court rooms of the said court-house, and by adjournment in the large court room, where the district and circuit courts have their sessions, and before the said Mr. Joseph Bridgham, commissioner and magistrate aforesaid, and in the presence and hearing of the said fugitive and his counsel, the evidence of criminality of the said Thomas Kane, un-

der the charge in the said requisition, was heard and considered; that this occupied three days; and a copy of such evidence of criminality is hereto annexed, marked schedule B.

That the said Mr. Joseph Bridgham, so acting as aforesaid, after he had heard such evidence of criminality, and counsel for the said prisoner and for the claimant had been heard, took time for advisement; and, on or about the twenty-eighth day of the said month of June, gave his decision in writing, of which a copy is contained in schedule C, hereto annexed.

(And during this time said Thomas Kane remained in the custody of the United States marshal.) That after such decision, a commitment, under the hand and seal of the said Mr. Joseph Bridgham, commissioner and magistrate aforesaid, was delivered to the said marshal, of which a copy is contained in schedule D, hereto annexed.

That thereafter the said prisoner applied for, and obtained, a writ of habeas corpus, under the hand of the honorable Samuel R. Betts, United States district judge, for the said southern district of New York, but abandoned it; and obtained another such writ from the same honorable judge, sitting as a circuit judge, and who, on the first, second, and third days of July last past, (1852,) took cognizance of and went into the matter during a term of the circuit court, and sitting, (as deponent has understood and believes,) as a circuit judge in the premises.

That Judge Betts took time for advisement; (and during this period the said Thomas Kane remained in the custody of the said United States marshal.) That on the ninth day of the said July the said Judge gave his decision, and caused an order to be entered, of which a copy is contained in schedule E, and marked No. 1, at the same time intimating that he was preparing an opinion in the matter, and which his honor afterwards promulgated; and a copy is also contained in the said schedule E, marked No. 2.

That on or about the eighteenth day of July, (1852,) a warrant from the Executive, for the extradition of the said Thomas Kane, was in the hands of the United States marshal, and a copy thereof is contained in schedule F, hereto annexed.

That after the said warrant for extradition had been granted, the said prisoner, on petition, obtained a writ of habeas corpus from Judge Bosworth, one of the judges of the superior court of the city of New York, directed to the said United States marshal, who, on the twenty-first day of the said July, made his return before the said judge, showing how the said Thomas Kane was in his custody, for and under the matter and proceedings and warrant of extradition; and the counsel for the prisoner obtained an adjournment, (but without any consent on the part of deponent as counsel aforesaid,) to traverse and meet the return and affidavit; and the matter, on motion of the prisoner's counsel, and partly on account of Judge Bosworth's illness, was also again adjourned to the tenth day of August instant. That while the said writ of habeas corpus before Judge Bosworth was pending, his honor Judge Nelson issued a writ of habeas corpus.

That on this tenth day of August, the prisoner's counsel moved to dismiss the writ before Judge Bosworth, and it was granted by Judge Duer.

But this deponent also says, that on the receipt by the said marshal of the said warrant of extradition, and on or about the nineteenth day of July last, (and not later than the twentieth,) the said marshal, in this deponent's presence, and the man being then in his custody, tendered to the said Mr. Anthony Barclay, consul aforesaid, the fugitive aforesaid, under the said warrant of extradition; and Mr. Barclay thereupon recognised such tender, but has been delayed in shipping the said man for trial for the said alleged crime, on account of the expressed belief of the said marshal of the necessity for an armed or other powerful police force to counteract outward excitement and threats of rescue, and because it is only at periodical times that certain steamships start from New York for a British port.

CHARLES EDWARDS.

Sworn at the city of New York, the tenth day of August, 1852, before me, GEO. W. MORTON, *U. S. Com'r.*

Schedule A.

To the honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York, and to any commissioners authorized to perform judicial duties in the matter hereinafter mentioned.

The requisition and complaint of Anthony Barclay, esq., Her Britannic Majesty's consul at the port of New York, authorized in this behalf, showeth—

That, as it has been represented to this requisitionist, the said consul, and as is fully believed by the said Mr. Anthony Barclay, (he having had facts laid before him, as well as the written information and warrant in the matter,) one Thomas Kane, or Kaine, or Cain, then of Cooleen, in the county of Westmeath, in that part of the dominions of her said Majesty called Ireland, did, on or about the fifth day of April, in the year one thousand eight hundred and fifty-one, at Cooleen aforesaid, and within the jurisdiction of the said Queen in Ireland aforesaid, feloniously and maliciously fire a pistol, loaded with powder and lead, at one James Balfe, with the intent to murder him, and thereby then and there did wound the said James Balfe.

That a warrant to arrest the said Thomas Kane, or Kaine, or Cain, for the said felony was issued by a justice of the peace, duly authorized for that purpose by and under her said Majesty's Government; but the said Thomas Kane, or Kaine, or Cain, absconded from his place of residence and from Ireland, and, as a fugitive from justice, came to the United States of America, and is at this time, as this complainant, Mr. Anthony Barclay, is informed and believes, residing in or near the city of New York, or Brooklyn, State of New York, and within the jurisdiction of your honorable court; and that he, the said Thomas Kain,

or Kaine, or Cain, is now seeking an asylum within such jurisdiction. Also, that the crime of which he has so as aforesaid been guilty would justify his apprehension and commitment for trial, if the crime or offence had been committed within the jurisdiction of the court for the United States for the southern district of New York.

The requisitionist and claimant therefore asks, that a warrant be issued for the apprehension of the said Thomas Kane, or Kaine, or Cain, (by whatever name he may be calling himself,) so that he may be brought before your honor, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, that your honor certify the same to the proper executive authority, in order that a warrant may issue for the surrender and taking back of such fugitive and offender, under the treaty between the United States and Great Britain for the giving up of criminals, fugitives from justice, in certain cases, made the 9th of August, 1852, and of the statutes passed for giving effect thereto; and that he may be given up for that purpose to this complainant, or to Martin Magher, a police officer or constable expressly detailed from Ireland for the purpose.

ANTH. BARCLAY.

CHARLES EDWARDS,
Attorney and of Counsel.

NEW YORK CITY.—The truth of the above sworn to by the complainant, Anthony Barclay, this fourteenth day of June, 1852, before me, GEO. W. MORTON, *U. S. Com'r.*

Schedule B.

In the matter of the extradition of Thomas Cane or Kane, under the Ashburton Treaty.—Attempt to commit murder by firing pistol at James Balfe.

Requisition of her Britannic Majesty at the port of New York, under the Ashburton Treaty, passed August 9th, 1842, and ratified August 11th, 1842.

Charles Edwards, esq., for the British Government.

R. Busteed, esq., for the accused.

1852, *June* 17.—The parties appear, and on motion of Mr. Busteed, counsel for the accused, the examination is adjourned until 2 o'clock.

2 *o'clock.*—The parties appear pursuant to adjournment. Mr. Richard Emmet appears as counsel for the accused, in the temporary absence of Mr. Busteed.

MARTIN MEAGHER, sworn.—I am acting constable of the Irish constabulary, county of Westmeath, in Ireland, and have been such for several years. I was made acting constable, May 1st, 1851; have been in the constabulary about 7 years. I know the accused now present;

I first saw him at Moate in the county of Westmeath, Ireland. I have known him 3 years or upwards. His name is Thomas Kaine.

Q. Had you as constable any order or warrant against him? (Objected to as an improper way of proving the charge.)

A. Yes.

Q. Can you produce such warrant? Do so. Warrant produced, marked "*Schedule A.—J. B.*"

A. This is the original warrant. I know Mr. James Featherston H.; he is justice of the peace of the county of Westmeath in Ireland. I know the handwriting of Mr. Featherston H., and saw him sign the warrant. John M. Higginson is sub-inspector of police, in the county of Westmeath, in Ireland.

Q. Do you know of James Balfe making any information in this matter? (Objected to.)

A. Yes, sir.

Q. Was it in writing?

A. Yes, sir.

Q. Can you produce it, or a copy? (Objected to.)

A. I can produce a copy.

Q. How do you know it to be a copy?

A. I wrote it myself, and examined it with the original. It is a true copy.

Copy produced, marked schedule B. (Objected to, that a copy is not sufficient to prove charge here—no attestation.)

Mr. Edwards reads the act, 12 August, 1848, 2d section, 30th Congress. James Balfe's information admitted in evidence.

Mr. Edwards reads information of James Balfe, "schedule B."

This occurred 5th of April, 1851. I saw James Balfe on the same day; his coat seemed to be burnt with powder, discolored. There was shot marks on his left side. I saw a prayer-book at the time; I have the prayer-book (produced,) marked schedule C.—J. B. I put my name in it 24th of May. That is the handwriting of James Higginson. (Admission of prayer-book objected to.)

I attempted to find Kaine under the warrant. The next day, the 6th of April, Mr. Higginson and myself went to the house of Kaine's mother, where Kaine resided at Ballinamuddagh; did not find him. We followed him to Liverpool, England. I came here to arrest the accused, and take him back. I also made an information in writing in this case. The one produced, marked schedule D, was made by myself, and signed by James Featherston H.

Cross examination.

I first knew Kaine about three years ago; he resided in Ballinamuddagh; I resided in Moate, about a mile and a quarter distant; I never saw him after these informations were laid, to my knowledge; Mr. Balfe resided at Shurock, county Westmeath, about two miles and three quarters from Ballinamuddagh; Mr. Balfe was a farmer assisting

his mother; he was not in the constabulary; I came to this country this day week, on the 10th inst.; Mr. Balfe still resides at the same place, and pursues the same occupation; I first received information of his, Kaine's, being in this country on the 16th of April last; the original warrant was put in my hands on the very day of the alleged offence; I went to his house with the warrant on the following day; I went to Liverpool about four days afterwards, I think on the 10th; I remained there but one night; I received then no information of the man's having come to America ; I could not remain there longer; I saw Mr. Balfe about an hour after the occurrence, at his mother's house; Mr. Higginson, the sub-inspector, and myself, and 3 or 4 others, were there at the time; his coat was not burnt through, only singed; Mr. Balfe was walking about at the time; his arm was lame, and his side sore; he remained in the house; that very evening we got a car and went before a magistrate and got the information; I examined his clothing.

There were 27 small and one large shot marks, on his person, on his side; I didn't see the bullet; we picked some of the shot out of his coat, I think; can't say what became of these shot; they were never produced before the magistrate that I remember; the only witness examined before the magistrate was Mr. Balfe; the occurrence took place about a quarter of a mile from Mr. Balfe's house; I believe Balfe was owner of the land; I don't know; I know a man named Wm. Stone, he resided in Cooleen; Cooleen to Shurrock, Mr. Balfe's place is something less than a quarter of a mile; I believe Shurrock did belong to Mr. Homan; it was lately sold under an encumbered estate bill.

Q. Who purchased at the sale? (Objected to) overruled.

A. It was not Cooleen that was sold, it was Shurrock.

Q. Who became the purchaser of the land sold under the encumbered estate bill? (Objected to and overruled.)

A. Mr. Fleming purchased the Shurrock house, and some land attached.

This purchase did not include the land where this occurrence took place; I don't know of the lands being sold were this occurrence took place; Mr. Featherstone H., did not purchase the land, to my knowledge, where this occurrence took place; he did not purchase at the encumbered estates sale.

Q. Who owns the land where this occurrence took place? (Objected to.

A. I heard Balfe say that he owned the land.

Q. Whether or not you know that Mr. Featherston H. owned this land?

A. He did not to my knowledge, but I believe that at that time the land was in chancery, and that Mr. Featherston H. was the receiver; this Mr. Featherston H. was not the man who signed this warrant.

Q. Do you know whether Stone was ever arrested on this charge?

A. He was not arrested on the charge of firing on this person.

Q. Do you know whether Mr. Balfe ever made an affidavit charging Stone with this offence?

A. I do not.

Q. Did Mr. Balfe make any affidavit in connexion with this occurrence, except the affidavit read to-day; if so, what was it?

A. None on paper that I know of, except that.

Q. Did he make any affidavit or statement, not in writing?

A. He did.

Q. What was that statement?

A. It was relative to Stone's threatening him, so that he became accessary before the fact.

Q. Before whom was that affidavit made?

A. It was before the same magistrate, about a fortnight afterwards.

Q. Upon that affidavit, was there a warrant issued for Stone's arrest?

A. There was no warrant; he was arrested on the day of the occurrence on suspicion of being an accessary. I made the arrest. Balfe made the complaint as being accessary. Don't know where Wm. Stone is. He was discharged in consequence of the principal not being in custody.

Q. Was there ever a warrant subsequently issued against Stone in relation to this offence? (Overruled and excepted to.)

Q. Have you applied, since you arrived in this country, for a warrant to arrest Mr. Stone here upon any matter relating to this charge? (Overruled and objected to.)

Q. Did you receive any instructions before leaving Ireland to make a requisition, or apply for such a warrant? (Overruled and objected to.)

Q. Have you applied, since your arrival here, for a warrant against any person except Kaine in relation to this charge, or have you received instructions to apply for such a warrant? (Overruled and objected to.)

Q. Where you detailed, for this duty, to come here and make this arrest?

A. I was.

Q. By whom?

A. Through the under Secretary of State.

Q. Upon whose application where you so detailed?

A. I think it was the Crown solicitor who made the application.

Q. Which of the Crown solicitors, and where does he reside?

A. The only Crown solicitor for the county of Westmeath.

Q. Upon whose application or information did the Crown solicitor make the request of the under Secretary that you should be detailed?

A. When the information reached the Inspector General of constabulary at Dublin Castle, he sent down an order to the county inspector, who ordered the sub-inspector to name a man of the force that could identify the prisoner, Kaine, to come out to this country; I was named as being one of the men who knew him. There were two others who knew him at that station.

Q. Was there any others who came out with you upon this duty?

A. No.

Q. Did any acquaintance come out with you from Ireland on this duty? (Overruled and objected to.)

Q. Did Mr. Balfe come out with you? (Objected to.)

A. No.

Q. Is Mr. Balfe in this country to your knowledge?

A. No.

Q. Have you and Balfe had any conversation respecting Balfe's coming to this country?

A. No.

Q. Do you receive any extra compensation for this service?

A. None whatever, but my actual expenses, and perhaps I don't get that.

Q. Was any reward offered for the apprehension of this man?

A. There was, 60 pounds.

Q. By whom was this reward offered?

A. By the Government.

Q. Is there any reward offered by private parties?

A. No.

Q. Is there any other reward?

A. I don't know of any.

Q. When was that reward offered?

A. I think the 6th or 7th of April, 1851, the date is in the placard.

Q. Are you under pay here?

A. Yes, always under pay.

Q. Do you consider yourself entitled to this reward?

A. No, it is against the rule to take any reward; there is no suspension of this rule, except by order of the Inspector General or Lord Lieutenant; none in such cases as this.

Q. Can the Lord Lieutenant suspend this rule?

A. Yes, I think he can.

Q. Are you authorized to pay this reward to any one in this country?

A. No.

Q. Have you made any arrangement in this country or Ireland by which you will get any portion of that reward of 60 pounds?

A. No, there is no express or implied understanding of that kind, and I can, in no event, receive any portion of this reward. I never made any other affidavit except the one produced; this affidavit was made with a view to my coming to this country. (Mr. Emmet moved to strike out this affidavit as not conforming with provisions of the act.)

Mr. Edwards opposes. (Adjourned to 10 o'clock to-morrow.)

Friday, June 18, 1852.

The parties meet pursuant to adjournment, when the commissioner stated—

At the adjournment of the examination of this cause yesterday afternoon, Mr. Emmet, counsel for the accused, moved that the affidavit or information of Martin Meagher, already produced in evidence, be stricken out, as not conforming to the provisions of the act of Congress

of August 12, 1848, relating to the apprehension and delivering up of certain offenders, under the treaties between the United States and foreign governments.

The commissioner, having considered the motion, is of opinion that the affidavit or information does not conform to the act, being neither a deposition nor the copy of a deposition on which the original warrant in the cause was granted. The objection, however, ought to have been taken at the time the affidavit was given in evidence; but inasmuch as the witness who made the affidavit is still under examination, and the charge is of so grave a nature, the commissioner will entertain the motion to strike out the affidavit, and grants the motion, with liberty to the counsel for the British Government to examine the witness orally as to the facts stated in the said deposition.

Mr. Busteed proceeds with his cross examination of witness:

Q. Look at the paper now shown you, marked schedule B, and say where said paper was written.

A. At Moate.

Q. At what place?

A. The police barracks.

Q. In whose handwriting is that paper?

A. In my handwriting.

Q. Is the whole of it yours?

A. The information and not the certificate. The whole of it on the first page is my handwriting. I am certain of it, except the interlineation of Westmeath.

Q. In whose handwriting are those words?

A. Mr. Julien, the Crown solicitor.

Q. When and where was that interlineation made?

A. On the 25th of May, at Moate, at the time we were comparing it.

Q. At what place in Moate was that interlineation made?

A. At the police barracks.

Q. In whose handwriting are the words—this 5th day of April, 1851?

A. In mine.

Q. When and where were those words written on this paper?

A. At the same time and place.

Q. State the names of the persons who were present at the time of the taking of the information, and were you present?

A. I was, and John M. Higginson, esq., inspector; none else but the magistrate and Balfe.

Q. Was there any other information than that set forth in this paper taken?

A. None that I am aware of.

Q. What did you mean by asking me a moment ago if I meant the original information as distinguished from this?

A. I wanted to know if it was the original or the copy.

Q. Did I understand that Mr. Featherston H., Balfe and yourself, were present when this was copied?

A. No. If I recollect right, there was no one present when I copied the information. Mr. Julien was in and out. Mr. Wallace and head constable Greene were walking in and out the office—perhaps only once. I think no one stood by or assisted me when I copied that paper. Head constable Greene gave me the original information from which I made the copy. I had seen it before at Mr. Featherstone H.'s house, when the man Balfe was sworn to it. That was more than 12 months before I copied it. I had never seen it since then and before I copied it. I accompanied the sub-inspector, and was present when Balfe was sworn to it. It was taken by Mr. Featherston H., and was in the handwriting of the clerk of the petit sessions—those petit sessions were held at the petit court-house at Moate, Mr. Featherston H. did not live at Moate.

I think the clerk of the petit sessions handed it to Mr. Higginson, not to me. Mr. Higginson brought it to Mr. Featherston H.'s, at Ballinnamuddagh—I accompanied him.

I think I saw information written by the clerk of the petit sessions laid before the magistrate.

Q. Did you see the paper, of which this is a copy, handed by the sub-inspector to the magistrate?

A. I don't recollect whether he handed it to him or not, but I saw the original paper laid before the magistrate.

Q. Do you swear you saw the original paper, of which this purports to be a copy, handed by the sub-inspector to the magistrate?

A. I don't recollect. I saw the original paper before the magistrate.

Q. Did the sub-inspector and yourself go to Mr. Featherston H. on the same day the original paper was taken?

A. Yes, sir.

Q. How soon after the information was laid at the sessions did you go to Ballinamuddagh with Higginson?

A. Immediately, in about five minutes, as soon as we could. I think I did not part company with Higginson from the time he received it at Moate, to the time he gave it to the magistrate at Ballinnamuddagh.

Q. Did you walk or ride from Moate to Ballinnamuddagh?

A. We rode on a car.

Q. Whose car was it, and whose horse?

A. I think it belonged to the hotel in Moate, not more than 100 yards from the court. The sub-inspector ordered one of the men to go for it; the petit sessions are opposite the barracks. I think the inspector and myself were at the barracks at the time the cart came, but have no positive knowledge about it. The magistrate was at home when we got there. The sub-inspector and myself went into the magistrate's house together, staid together all the time, and came out together. I can't be accurate about the sub-inspector and magistrate being there together without me. I don't recollect if I saw the original paper after the sub-inspector got it, and before he delivered it to the magistrate. I saw the original paper in the magistrate's room at that very time. I

did not read it then; I heard it read in the magistrate's room at that very time by the magistrate. I have not seen it since to my knowledge. It was given to me by the head constable, 25th May, 1852. That was the time I next saw it.

Q. Would you recollect the contents of the original information if you had not since heard it read or copied it?

A. I would know the purport of it, but not the exact words. I have a tolerably good memory.

Q. Why can't you recollect so as to be able to swear to the fact whether you saw the original information after it was given to the magistrate, and before you copied it again?

A. I don't know the reason, I can't say.

Q. Do you not think if you had seen it you would recollect the fact?

A. I think if I had seen it that I might recollect it.

Q. Are the words in this paper, this 5th day of April, 1851, written in the same ink with the body of the instrument?

A. It is in the same. I swear that the words "the 5th day of April, 1851," are the same as the words in the original information. Those words are in my handwriting; when I copied this paper, Mr. Julien and myself compared them and cross compared them, and when I compared them I found that this 5th day of April, 1851, was not in my copy. I therefore wrote it and put blotting paper over it, which accounts for the difference in its appearance. There were interlineations in the original information, the words "live to" that is all. Stone was not in court when the original information was taken; he was in custody.

Q. How near to the place where this was taken was Stone confined? (Overruled and objected to.)

Q. Where was Stone when he was taken in custody? (Objected to.)

A. At his own house in Cooleen. I have been over the ground where this occurrence took place; I know the general appearance of the country; the usual quantity of ditches and hedges. I don't know John Daly. There is a printer by that name in Athlone. I first saw the original warrant 5th April, 1851; I first saw it at Moate, I think. I think the sub-inspector had it along with the information. I am not very positive. To the best of my belief, I first saw it at Moate in the sub-inspector Higginson's possession. I think he was in the barracks at the time. I think I first saw it about 3 or 4 o'clock in the afternoon. I had been to the place of the occurrence before that; that day Higginson had left the sessions and gone to the barracks, when I saw it. The body of the warrant is in the handwriting of the petit sessions clerk; I have frequently seen him write; that is the way I will identify it. I never made any affidavit on which the original warrant was granted. I have seen Mr. Featherstone H. write.

Q. When you first saw this warrant in the sub-inspector's hand what was done with it?

A. After it was completed it was given to me in the evening, about 7 or 8 o'clock, at the time of the return from Mr. Featherston's. I re-

mained at Featherstone H.'s house about half an hour, perhaps more. I have known Jas. Balfe 5 or 6 years. I have known Stone about the same time; Kaine about 3 years. Balfe is about 24 or 25, a single man; I have not been intimate with him; I have never stopped at his house, except on duty, perhaps 10 times entirely; never stopped at his house except on duty, to my knowledge; never stayed over night, never took meals there. Balfe can't read or write, so he says.

Q. Do you know any thing, in your official capacity, of the state in which that part of Ireland was, at the time of this occurrence, in respect of any political agitation? (Overruled and objected to.)

Q. Have you any warrants in your possession, or information upon warrants, against any other person or persons charged as accessaries before or after the fact, or as principals, or in any other manner relating to the offence with which Kaine is charged, or in any way connected therewith? (Overruled and objected to.)

Re-direct.

You were asked yesterday in regard to the placard of a reward, (the placard is produced, marked schedule G;) is this the placard?

A. It is.

Mr. Edwards reads placard.

Balfe's skin on his side was broken, with blood coming out. I saw shot marks on his side.

Cross resumed.

I counted the shot marks I saw in his side; I discovered twenty-eight in all. The wound marks were small; about the size of those marked in schedule H; the large one designates the 28th; the other twenty-seven, I think, were all of the same size. He was in his mother's house at the time of the examination; his mother's house was in Shurrock; he was standing up and stooping, taking off his clothes when I saw them. The shot marks were in the left side, just under the arm. The examination was made about 10 o'clock. The sub-inspector and three or four others, and the doctor, came in afterwards. I think his mother and sister were in the room at the time. When I first saw the shot marks no physician was present. The examination was made April 5, 1851. He, Balfe, went off to the priest first; he thought he would have died. I think we were in the house about 10 minutes before he came back; I was there about 15 minutes before the examination took place. The sub-inspector desired him to strip. I wasn't ordered to count the wounds. Balfe was not there when we went to his mother's house.

Q. How far was it to the priest's house to which Balfe went, as you have stated, to Balfe's mother's house? (Overruled and objected to.)

Q. Did you not hear a report that Balfe had shot himself for the purpose that he might make application for, and receive, the protection of the police?

A. I never did.

Q. At the time you examined those wounds, and they were bleeding, how much did they bleed?

A. Very little. The wounds covered about the size of schedule H. It was about an hour after he was shot that I examined him.

Q. How do you ascertain the time at all?

A. We received the information about half-past 12; it took us perhaps half an hour to go out, and we remained half an hour before we saw him. The large wound had more blood than the others. I didn't probe the wounds; I saw the doctor probe them, or put his finger on the large mark; can't say that he did anything with the small marks; there was no ball in the large mark; I didn't see the doctor take any small shot out of the wounds. I never saw the bullet, and nobody else to my knowledge; never saw any shot to the best of my recollection; there was some found in his coat; they were single duck shot.

Q. What was the priest's name? (Overruled and objected.)

I think I examined his clothes at the same time I examined his side; don't recollect distinctly. I know Father Duffy; he lives about two miles from Balfe's mother's house.

Q. Did you ever see and examine any person before, or since, who had been shot by a pistol with shot or bullet? (Overruled and objected.)

MARTIN MEAGHER, *A. Constable.*

Adjourned till 10 o'clock, a. m., to-morrow, by consent of counsel.

SATURDAY, *June* 19, 1852.

The parties meet pursuant to adjournment.

The prisoner, under advice of counsel, declines an examination.

Mr. Busteed moves to strike out all testimony of Meagher, in reference to the prayer-book.

The counsel asks to call the witness for the purpose of cross examining him in respect of his examination in chief, concerning this prayer-book, on the ground that the counsel understood that all the testimony of that witness, in relation to any matter contained in the affidavit, was, together with the affidavit, by the decision of the commissioner of yesterday morning, stricken out of the case; and because we understand the commissioner now to rule that he did not, by that decision, exclude the testimony of the witness, Meagher, but merely his written deposition as to the contents of which he was examined in chief.

Mr. Busteed moves that the whole proceeding be dismissed, on the ground that there is no evidence that the warrant is the original warrant. No attestation, as required by the act of Congress.

1st. There is no legal evidence that the person signing said warrant is a magistrate. Evidence that a person assumes to act as a magistrate in a foreign country is not to be considered here even as prima facie that his acts are performed virtute officii.

Secondary evidence cannot be received while party offering it has it in his power to produce better or primary evidence.

2d. There is no evidence, as required by the act of Congress, that the warrant was issued after the information of Balfe, produced here, was in writing; on the contrary, the evidence is that it was issued before the affidavit of Balfe was in writing.

3d. On the ground that the written deposition or information of Balfe produced in proof is too vague and uncertain in its allegations to justify the issuing of a warrant; it alleges no offence, or an attempt at an offence, enumerated within the treaty.

Anthony Barclay, sworn, on the part of the prisoner; I am her Majesty's British consul of the United States. Requisition was signed by me.

Q. What other facts have you as to matters charged in warrants in this case, other than those derived from the written information and the warrant itself?

A. I have no other facts excepting those transmitted in writing; of course I could have no facts from my actual knowledge. I have no knowledge from eyesight, it is all in writing.

Q. Are you authorized to pay a reward upon behalf of her Majesty's Government to any person here, for any service whatsoever, for the apprehension, or for information leading to the apprehension of him, or for any information respecting where he may be found?

(Objected to and admitted.)

A. I am not so authorized.

Q. Do you know whether or not any reward is to be paid to any person here for such service as is stated in the previous question?

A. I do not know it, either by hearing or in writing. I have seen a handbill issued in Dublin. I presumed that that handbill was in reference to a reward to be paid in Dublin.

Q. Have you any knowledge, either in your personal or official capacity, of the participation of the accused in the late political disturbances between Ireland and England, or any information, oral or written, charging him with such participation in any degree, and in respect to any of her Majesty's functionaries in Great Britain or Ireland?

A. I never had the slightest information, even in the confidential conversations with the officer who came to make the arrest, nor in any way, or from any quarter.

John Mooney, sworn, on the part of prisoner.—Am a native of Ireland, born in the county of Westmeath; been here in the city of New York six years. Reside at 24 St. Mark's Place. I know James Balfe, of Shurrock, in county of Westmeath; have known him perhaps ten years before I came to this country.

Q. Do you know what his reputation is for truth and veracity?

(Overruled and objected to.)

The counsel says he has witnesses who know Balfe, and who are acquainted with his character, and offer the same.

Q. In what part of the county of Westmeath were you born?

A. About a quarter of a mile from the town of Moate.

Q. How long did you reside there?

A. Till I came to this country.

Q. Are you acquainted with the locality of Moate and its surrounding towns and neighborhood?

A. I am acquainted with the character of the country in and about Cooleen. I don't know where Balfe's mother resided. I know where Shurrock and Temple Hill are?

Q. How far is it from Cooleen to Temple Hill?

(Objected to.)

A. I should think it is four miles, by the mile stones on the way to Moate. It must be about two and three-quarter miles to go by road to Temple Hill. Don't know the name of the priest of Temple Hill. The country is diversified with hill and ditches.

JOHN MOONEY.

PATRICK ROLFE, sworn.—Born in Westmeath, Shurrock. Knows where Cooleen is, and knows Mount Temple. Distance about two and three-quarter miles; perhaps a little over.

No objection made on the part of the British Government on account of the above testimony not being signed.

Testimony closed.

Mr. Busteed sums up for the accused.

Mr. Edwards sums up for the prosecution.

June 28—Cause decided.

Mr. Busteed objects to the cause being decided without the presence of the prisoner.

Prisoner committed to await requisition of the Secretary of State of the United States.

JOSEPH BRIDGHAM,
U. S. Commissioner.

Part of Schedule B.

(Schedule A.—J. B.)

WARRANT.—To John M. Higginson, esq., sub-inspector, and his assistants, this to execute.

COUNTY OF WESTMEATH, *to wit:*

Whereas, complaint on oath has been made before her Majesty's justices of the peace, of and for the said county of Westmeath, at Ballinlober, on this day, that one Thomas Kane, did, at Cooleen, in said county of Westmeath, on this fifth day of April, instant, feloniously and maliciously fire a pistol, loaded with powder and lead, at one James Balfe, with the intent to murder him, and did then and there wound the aforesaid James Balfe.

These are, therefore, in her Majesty's name, to charge and command you, immediately on receipt thereof, to apprehend and bring before some of her Majesty's justices of the peace, of and for said

county, the body of the aforesaid Thomas Kane, to answer the complaint, and to be further dealt with according to law.

Given under my hand and seal this 5th day of April, 1851.

JAS. FEATHERSTON, H., *J. P.* [SEAL.]

To sub-constable Martin Meagher and his lawful assistants, this warrant legally to execute.

J. M. HIGGINSON, 3*d S. I.*

MOATE, *5th April*, 1851.

Endeavored to execute same on the 11th and 12th of April, '51, at Liverpool, without effect.

MARTIN MEAGER, *A. C.*

Endeavored to execute this warrant on the night of the 29th instant, with J. M. Higginson, esq., S. I., and party; did not succeed.

JAMES GREEN,
Head constable.

Do. do. on the 7th June 1851. J. G., H. C.

Endeavored to be executed on the 6th July, '51, by Jas. Moore, C.

Do. Oct. 16. } J. G., H. C.
Do. do. 28. }

Do. Nov. 10, '51. M. M., A. C.

Do. Nov. 25, '51. J. Malon, S. C.

Do. Nov. 29, '51. A. C. Meagher and party.

Do. Dec. 21st. M. Costigan, C.

Do. do. 27th.

Do. do. 12th Jan'y, '52. A. C. Meagher and party.

Do. 22d Feb., '52. By sub-inspr. and party.

MOATE, *May 30th*, '51.

This warrant endeavored to be executed on the morning of the 16th November, '51, without effect.

Endeavored to execute this warrant on Thos. Kane, night of the 29th Feb., '52, without effect.

M. COSTIGAN,
Constable.

Endeavored to execute this warrant, night of the 13th March, '52, without effect.

M. COSTIGAN, *Const.*

BOROUGH OF LIVERPOOL, *to wit:*

Whereas proof upon oath hath this day been made before me, one of her Majesty's justices of the peace for the said borough, that the name, James Featherston, to the within warrant subscribed, is of the handwriting of the justice of the peace within mentioned. I do hereby authorize Martin Meagher, who bringeth to me this warrant, and all other persons to whom it was originally directed, or by whom it may lawfully be executed, and also all constables and other peace officers of the said borough of Liverpool, to execute the same within the said late mentioned borough.

Given under my hand this 11th day of April, 1851.

R. E. HARVEY.

Part of schedule B.—(Schedule B.—J. B.)

COUNTY OF WESTMEATH, *to wit:*

The information and complaint of James Balfe, of Shurock, farmer, taken 5th day of April, in the year of our Lord 1851, before the undersigned, one of her Majesty's justices of the peace in and for said county of Westmeath, who saith, that on this day, (the 5th day of April,) I was ploughing near that part of the land of Cooleen, in said county of Westmeath, which land a man named William Stones had lately been dispossessed of, and about which he had frequently threatened me, and told me a few days since that I might sow it, but that I should not live to reap it. Saith, about the hour of 12 o'clock at noon, on said day, a man named Thomas Cain, or Kain, came up to me when I was ploughing, armed with a case of pistols. On coming up to me he said to me, "God save you; are you Peter Balfe?" I said, don't you know well I am not, Tom. He then asked, is that Stones' land? I said not; that it was the other side of the ditch. He then asked me, was I warned to have nothing to do with it, (Stones' land,) and I said not, except what I heard from Stones. He then said he came to warn me, and asked had I a prayer-book. I said not. Well, I have one myself; and he took both pistols in one hand, and took a prayer-book out of his pocket and threw it on the ground towards me. I stooped to take it up, and while stooping he fired one of the pistols at me; and on examining my person, I found the mark of a bullet and twenty-seven grains of shot in my side, just under my left arm. He was so close that the powder discolored my coat, and some of the said shot marks was on my left arm. I then jumped up and ran away, and he followed me some distance; he then turned back towards the horses, and I went into John Mularney's house, and sent for the horses. I saw no more of him. I knew him well for some years back, and I kept his prayer-book.

his
JAMES ✕ BALFE.
mark.

Sworn before me the day and year first mentioned, at Ballentubbe, in said county of Westmeath, this 5th day of April, 1851.

JAMES FEATHERSTON, H.

I certify that the information, copied on the other side hereof, is the original deposition upon which the original warrant has been issued by me for the apprehension of Thomas Kain, charged with shooting at James Balfe, of Shurock, in the county of Westmeath, with intent to murder him, the said James Balfe; and I further certify, that the said copy at the other side hereof is a true copy of said original deposition.

Dated the 25th day of May, 1852.

JAS. FEATHERSTON, H.

One of her Majesty's Justices of the Peace of the county of Westmeath, in Ireland.

Witness present—MARTIN MEAGHER, *A. C.*

[No. , D. T. 1852.]—3

Schedule C.—J. B.

Prayer-book.

Title: The portable Key to Heaven, and Catholic Christian's Daily Companion.

Inside: februy 17the 1851 Thos Kain Mary Ann Carr.

Received this book from James Balfe, on the 5th day of April, 1851, Moate.

J. M. HIGGINSON, 3d S. I.

Rec'd 2d fr., '52, from J. M. Higginson, 3d S. I.

J. GREEN, H. C.
MARTIN MEAGHER, A. C. 7127.

Part of Schedule B.

Schedule G.—J. B.

(ROYAL ARMS.)

DUBLIN CASTLE, *April* 11, 1851.

Whereas it has been represented to the Lord Lieutenant, that at the hour of twelve o'clock, noon, on the 5th instant, James Balf, farmer, of Cooleen, barony of Clinlonon, and county of Westmeath, was fired and wounded by Thomas Kain:

His Excellency, for the better apprehending and bringing to justice the perpetrator of this outrage, is pleased hereby to offer a reward of sixty pounds to any person or persons, who shall, within six months from the date hereof, give such information as shall lead to the arrest of the said Thomas Kain.

By his Excellency's command,

T. N. REDINGTON.

The above reward will be paid on conviction, by C. P. Wallace, esq., the resident magistrate at Mullingar, to those who may become entitled to it under the conditions of this proclamation.

Printed by George and John Grierson, printers to the Queen's most excellent Majesty.

Part of Schedule B.—J. B.

Schedule H.

Schedule C.

(Commissioner Bridgham's decision.)

The prisoner, Thomas Kaine, has been arrested by virtue of a warrant issued on the requisition and complaint of Anthony Barclay, esq.,

her Britannic Majesty's consul at the port of New York, for the crime of an assault, with intent to commit murder, within the domains of the Queen of Great Britain and Ireland. This warrant was issued in conformity with the stipulations of the treaty between the United States and Great Britain, of August 9, 1842. The tenth article of which treaty is as follows: "It is agreed that the United States and her Britannic Majesty shall, upon mutual requisitions by them, or their ministers, officers or authorities respectively made, deliver up to justice all persons who, being charged with the crime of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged paper, committed within the jurisdiction of either, shall seek an asylum, or shall be found within the territories of the other; provided that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the crime or offence had there been committed; and the respective judges and other magistrates of the two governments shall have power, jurisdiction, and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, that he may be brought before such judges or other magistrates respectively, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of such fugitive. The expense of such apprehension and delivery shall be borne and defrayed by the party who makes the requisition and receives the fugitive." The original warrant in this case was issued by James Featherstonhaugh, esq., a justice of the peace of the county of Westmeath, Ireland, in which county the alleged crime was committed. The warrant was produced before me, together with a copy of the information or affidavit upon which said warrant was issued, said copy being certified, according to the act of Congress, by the justice of the peace who issued the warrant, and attested by the oath of the witness to be a true copy. James Balfe, the witness who made the information or affidavit, states, among other things, that on the 5th day of April, 1851, he was ploughing some land in the county of Westmeath, when Thomas Kaine came up to him armed with a case of pistols; and after some conversation respecting some land, of which a man named Stone had lately been dispossessed, and respecting which the witness had been threatened, said, that he came to warn the witness, Balfe, about it, and asked if he, witness, had a prayer-book; witness said that he had not; Kaine then said he had one himself, and threw it on the ground before the witness, who stooped to pick it up; that, while stooping, Kaine fired one of the pistols at him, and that on examining his person he found marks of a bullet and twenty-seven shot in his side, just under his left arm; that he then fled, and that Kaine pursued him some distance, but finally turned back, and witness saw no more of him.

Upon this information the said Featherstonhaugh, justice of the peace for the county of Westmeath, granted his warrant for the apprehension of Thomas Kaine, the prisoner, upon complaint on oath made before him that the prisoner had feloniously and maliciously fired a pistol loaded with powder and lead at the said James Balfe, with intent to murder him. This warrant, dated April 5, 1851, was immediately put into the hands of one Martin Meagher, constable of Westmeath, who made search for the prisoner, and was unable to find him or to execute the warrant. The said Meagher was produced before me, as a witness, and testified, among other things, that he was acting constable of the Irish constabulary of the county of Westmeath, in Ireland, and had been such constable for several years; that he knew Thomas Kaine, the prisoner, and had known him for three years and upwards; that he had received, as such constable, the warrant before mentioned, to execute against the prisoner; that it was the original warrant; that he saw James Featherstonhaugh, the magistrate, execute it; that he knew said Featherstonhaugh to be a justice of the peace of the county of Westmeath, in Ireland. He also testified that on the same day he saw James Balfe; that Balfe's coat seemed to be burned with powder; that there were shot marks on his left side; that the witness accompanied Balfe to the magistrate, where he made the information, and that on the same day the witness received the warrant against the prisoner. Meagher further testified that the order for his coming here on this duty came from the under Secretary of State upon the application of the Crown solicitor of the county of Westmeath, and that there was a reward of £60 offered by the Government on the 7th of April, 1851, for the apprehension of the prisoner. The duty of the commissioner in such cases is to inquire whether the evidence of the guilt of the person charged would justify his commitment for trial according to the laws in force in the State of New York, if charged with the crime here. The examination and commitment of persons here charged with such offences as are enumerated in the treaty is provided for by the laws of New York, (2 Rev. St. 793, chap. 2,) and would be complied with to all intents and purposes by testimony from which the commissioner or magistrate should conclude that the offence had been committed, and that there was probable cause to believe the prisoner to have been guilty thereof. Probable cause is deduced from a state of facts and circumstances which afford reasonable grounds of suspicion of guilt. (1 Burr's Trial, 11, 14, 16; 4 Cranch, R., 129; Barbour's Crim. Law, 455, 492, 496; 4 Chitty's Blackstone, 235.) There is no question in my mind as to the identity of the prisoner, nor that the offence charged comes within the specification of the treaty, nor as to the probable cause of guilt. Technical objections, however, are taken to the evidence on the part of the counsel for the prisoner principally.

1st. That the official character of the person signing the warrant is not sufficiently made out. From an inspection of the original warrant itself, it appears, by an endorsement thereon, that proof upon oath was

made on 11th April, 1851, before one of the justices of the peace for the borough of Liverpool; that the name subscribed to the warrant was of the handwriting of the justice who signed it, and therefore authority was given for the execution of the warrant within the said borough. But, as to this point, the testimony of the witness Meagher is clear. He swears that James Featherstonhaugh is a justice of the peace of the county of Westmeath, in Ireland; that he saw him sign the original warrant produced in this case; and that the information was made before him in that character. It cannot be necessary to produce or prove the commission under which the justice of the peace held office. Proof that he publicly discharged the duties of a magistrate, and acted as such, is prima facie evidence of his official character. (Greenleaf on Evidence, vol. 1, 109, 119.) The legal presumption is, that a man, acting in a public office, has been rightfully appointed. (Cow. & Hill's Notes to Phillipps on Evidence, p. 297, 12; 12 Wheaton, 70; Rex vs. Verelst, 3 Camp., 432; Bishop vs. Cone, N. H. R., 512; and People vs. Gilbert, Anthon's N. P. Rep., 191.) Lord Ellenborough says in Rex vs. Verelst, 3 Camp., 433, that it is a general presumption of law that a person acting in a public capacity is duly authorized to do so; and in Rex vs. Jones, 2 Camp. R., 131, where the objection was taken to a letter offered in evidence purporting to be signed by Mr. Pitt and others, Lord Commissioners of the Treasury, that it was necessary to prove those persons were Lord Commissioners of the Treasury and had authority to write the letter, by producing their commission; it was held unnecessary, and the letter was admitted on proof of the handwriting of the three persons who had signed it as Lord Commissioners of the Treasury.

2. That there is no evidence that the warrant is the original warrant. The witness, Meagher, swears, however, that it is the original warrant; that he saw it signed by the magistrate, and that it was delivered to him (Meagher) to be executed. The provisions of the 2d volume Revised Statutes, p. 492–3, relied on by the counsel for the prisoner, are not applicable in this case, because the 28th section provides that the preceding sections of that article shall not prevent the proof of any record or judicial proceeding of the courts of any foreign country, according to the rules of the common law, in any other manner than that therein directed. Those sections, therefore, which are relied upon by the counsel for the prisoner, do not exclude any mode of proof which would be valid according to the rules of the common law. No particular mode of proof of the existence or genuineness of the warrant is required by the act of Congress. Section two, of the act of Congress of August 12, 1848, giving effect to certain treaty stipulations, provides that, in every case of complaint as aforesaid, and of a hearing upon the return of the warrant of arrest, copies of the depositions upon which an original warrant in any such foreign country may have been granted, certified under the hand of the person or persons issuing such warrant, and attested upon the oath of the party producing them to be true copies of the depositions, may be received in evidence. I have con-

sidered these as well as the other objections taken, and not necessary here to be recapitulated, with careful deliberation, and with an anxious desire, on the one side, to do every thing required by the interests of justice and a discharge in good faith of the sacred obligations of our treaty stipulations; and, on the other, to do nothing inconsistent with a proper regard to the security of personal liberty.

On the whole, I am of opinion, that the papers offered in proof in the cause are properly authenticated; and as the evidence itself, in my view, is sufficient to commit the prisoner, had the offence been committed here, I feel it my duty to certify the proceedings had before me to the Secretary of State of the United States, in whom is vested the power, by the treaty, to issue a warrant for the extradition of the prisoner.

Schedule D.

UNITED STATES OF AMERICA,
Southern district of New York, ss.

In the matter of Thomas Kaine.

This case having been heard before me, on requisition, through Anthony Barclay, esquire, her Britannic Majesty's consul at the port of New York, that the said Kaine be committed for the purpose of being delivered up as a fugitive from justice, pursuant to the provisions of the treaty made between the United States and Great Britain, August 9, 1842, I find and adjudge that the evidence produced against the said Kaine is sufficient in law to justify his commitment on the charge of assault with intent to commit murder, had the crime been committed within the United States. Wherefore, I order that the said Thomas Kaine be committed pursuant to the provisions of the said treaty, to abide the order of the President of the United States in the premises.

Given under my hand and seal, at the city of New York, this 29th day of June, 1852.

Signed, JOSEPH BRIDGHAM, [L. S.]
United States Commissioner for the Southern district of New York.

Directed to the marshal of the southern district of New York.

Schedule E.—No. 1.

At a stated term of the circuit court of the United States of America, for the southern district of New York, in the second circuit, held at the City Hall, in the city of New York, on the ninth day of July, in the year of our Lord one thousand eight hundred and fifty-two.

Present, the honorable Samuel R. Betts, district judge.

In the matter of the imprisonment of Thos. Kaine.

July 9th, 1852. The following decision was, this day, rendered by

Judge Betts, on the various points raised and discussed upon the return of the habeas corpus in this case:

1. Under the provisions of acts of Congress organizing the circuit courts, and the expositions thereof by the Supreme Court, a district judge, in the absence of a circuit judge, can hold a circuit court and exercise therein all the powers conferred by law upon the court, other than hearing cases on writs of error or appeal from a district court holden by himself.

2. It being term time of this court when the writ of habeas corpus was allowed by the district judge, he could, at his discretion, order the writ returned in court, or before himself at chambers.

3. Neither the treaty between the United States and Great Britain, concluded August 9, 1842, nor the act of Congress passed August 12, 1848, any way impair the authority of the judges or courts of the United States to award a writ of habeas corpus in the case of a fugitive from justice, and determine whether he be rightfully imprisoned or detained as such by order of any judge or magistrate.

4. The proceedings in the courts of the United States, on writs of habeas corpus, are in conformity with the rules of the common law, and are not governed by the legislation of the several States.

5. The prisoner has no right to traverse the return of the marshal, or demand an issue on the legality of his commitment. The papers offered to the court for those purposes cannot, therefore, be received as a pleading in the case.

6. The writ of habeas corpus, being authorized by act of Congress "for the purpose of an inquiry into the cause of commitment," the prisoner may show, on its return, from the face of the return, or aliunde, that the officer issuing the warrant of arrest or commitment had no competent authority so to do, or that the subject matter was not legally brought within his jurisdiction.

7. The provisions of the treaty in respect to fugitives from justice are, of themselves, a law, which the judges and magistrates of the United States may execute without other authorization.

8. The commissioner who issued the warrant of arrest and commitment was, at the time, by virtue of his appointment and the acts of Congress in force, a magistrate, within the meaning of the treaty.

9. The judges or magistrates act under the treaty upon complaint, on oath, and the treaty does not require any requisition upon them by a minister or officer of the British Government, in order to give them jurisdiction of the subject. The requisition is to be by one government on the other for the extradition of the criminal after his commitment by a judicial officer.

10. The act of Congress of August 12th, 1848, is auxiliary to the treaty. It no way curtails or limits the operation and effect of the treaty, nor are any of its enactments repugnant to the treaty stipulations; and, accordingly, if, under our jurisprudence, there be a supremacy of the treaty law over the legislative act, there is no occasion for the applica-

tion of such principle in this case. The objection to the operation of the act concurrently with the treaty has, therefore, no legal foundation,

11. The act of Congress is valid, and must be carried into effect by the Judiciary, although it directs the surrender of fugitives from justice in cases out of the scope of the treaty compact. It rests in the discretion of Congress to order the extradition of criminals found within our dominions, irrespective of any reciprocal obligations on the part of the government from whose jurisdiction they escape.

12. The commissioner was authorized, by virtue of his appointment by this court, in October term, 1851, to take cognizance of this case under the provisions of the act of August 12, 1848.

13. The return of the marshal, connected with the documents annexed, shows upon its face that the subject matter was brought before the commissioner by a complaint on oath, and legal proof that the prisoner was a fugitive from justice from Great Britain.

14. The evidence that an assault was made, at the time and place charged, with intent to commit murder, was admissible and relevant to that point; and the copy of the deposition made in Great Britain, upon which the original warrant was there granted against the prisoner, was duly authenticated, and was admissible evidence before the commissioner of the criminality of the prisoner; and the evidence taken and received by the commissioner to prove the authority of the magistrate in Great Britain to grant such original warrant, was legally admissible and competent to that end.

15. The commissioner having competent authority to take cognizance of the complaint and to issue his warrant thereupon, and there being legal evidence before him in support of the complaint and of the criminality of the prisoner in the matter charged against him, it does not belong to this court, on habeas corpus, to review the correctness of the decision of the commissioner upon the admissibility or effect of the evidence before him, nor to inquire whether the prisoner be innocent or guilty of the crime charged against him.

The court accordingly adjudges that the commitment and imprisonment of the prisoner for the causes in the return to the habeas corpus in the case set forth, are sufficient cause and warrant in law for his detention by the marshal.

Therefore, it is ordered by the court, that the writ of habeas corpus allowed in this case be dismissed, and that the prisoner be remanded and continued in the custody of the marshal, under such his arrest and commitment by the aforesaid process.

A copy:

JOHN W. NELSON, *Clerk.*

Schedule E.—No. 2.

BETTS, sitting as a Circuit Judge.—It was assented on both sides, that the evidence before the commissioner, and the traverse offered at the hearing, should be considered as provisionally before the court, to

enable the parties to discuss the legal relevancy and effect of these particulars, and, also, that it might be determined, if important to the merits of the case, in what manner and to what extent the prisoner might re-examine the decision of the committing officer. The papers were received, however, with express notice to the counsel on both sides, that the court would hear no argument upon the question of the guilt or innocence of the prisoner of the crime charged against him, nor upon the policy or propriety of his extradition from this country to England. In this posture of the debate, there could be no occasion for the excited temperament of the auditories which thronged the court during the period of the argument, and it is to be deplored that the manifestations with the crowd to resist the detention of the prisoner, should be such that the marshal reported to the court he could not venture to remove him from prison, in obedience to the writ, without the aid of an armed force. The personal attendance of the prisoner was not indispensable, nor was it deemed so important as to warrant the hazard of the consequences which might attend his production in court with the writ, the danger not being that he would be concealed or subtracted from the command of the writ by the power which caused his arrest, but, on the contrary, that he would be rescued from the custody of the law by a mob.

The points upon which most stress was laid in the argument were, first, the preliminary objections in support of the arrest, that a district judge of the United States has no power to hold a circuit court; that he cannot order a writ of *habeas corpus*, allowed before him, to be returned in the circuit court; and that, under the treaty with Great Britain and the act of Congress, of August 12, 1848, power is conferred upon the Executive Department solely to determine whether a prisoner, arrested as a fugitive from justice, shall be delivered back to the country from which he escaped, and that the Judiciary have no cognizance of the subject. I do not propose an extended consideration of these propositions.

The circuit court is composed of a justice of the Supreme Court, and a judge of a district court, and authority is given to each of these judges to hold the court in the *absence* of the other. Thus far, Congress has legislated directly and explicitly (1 St. at large, 74, § 4; Ib. 333, § 1; 2 Ib. 157, § 4; 5 Ib. 676, § 2.) The term absence in the statute is not limited to temporary omissions to attend court by a circuit judge. A district judge holds the circuit court with full powers, except voting on his own decisions removed by appeal or writ of error, in case the office of circuit judge be vacant by death or otherwise. (4 Cranch, 421; Pollard *vs.* Dwight, 5 Wheat., 434; U. States, 2 Lancaster, 2 How. 65; Barry *vs.* Mercein.) The last case was one of *habeas corpus*, arising in this district. The Supreme Court was applied to, after the death of Judge Thompson, to allow the writ, because the circuit judgeship was vacant. The court decided that the death of the circuit judge did not affect the powers of the court which could be held the same as if presided in by a justice of the Supreme

Court. There seems, therefore, to be no legal ground to question the competency of the court holden by a district judge alone, to exercise all the powers of a circuit court, under a writ of *habeas corpus*.

(2.) The Judiciary act, § 14, gives power to the justices of the Supreme Court and the several district judges to award writs of *habeas corpus* for the purpose of inquiring into the causes of commitment; but does not in the same clause and connexion confer that authority on the courts themselves. This gave occasion to a doubt whether the power was vested in any of the courts; but at an early day the Supreme Court decided that all courts of the United States had, under the statute, power to issue that particular writ. (4 Cr., 73, 979.) And that construction has since been carried into execution by that court and the various circuit courts. (3 Peters, 202, Watkins' case; 7 Peters, 568 S. C.; 7 Wheat., 38 Kearney's case; 3 McLean R., 89; ib. 121.) And after it is awarded, it carries with it the properties of the writ at common law. (4 Cranch, 75; 3 Peters, 201.) In this view of the subject it is unimportant whether the writ issues in aid of an appellate power of the court, or by its original authority, inasmuch as it is a process which may emanate directly from a court, and is not simply the warrant of an individual magistrate. The court having power to grant the writ and act upon its return, the judge, who awards it at chambers, may make it returnable in court, instead of before himself personally. (3 Black. Com., 131.)

The circuit court being at the time in session, and held by the district judge, this course was taken to help obviate a supposed difficulty in removing a proceeding from before a judge at chambers to the Supreme Court.

I am not satisfied that, in the present instance, there would be any difference available to either party to have the proceedings conducted by the judge in one of the United States court-rooms, in preference to the other; and indeed, to all general intents, the judge may be regarded, in the transaction of official business at chambers, to be acting as a court. (1 Blatchford's Cir. C. R., 543.)

I can perceive no ground on which to rest an objection to the authority of the Judiciary to inquire, through a writ of *habeas corpus*, into the cause of commitment, in case of arrest of fugitives from justice, on application made under the treaty between the United States and Great Britain. A stipulation in the treaty prohibiting such jurisdiction, equally with a like enactment in a statute, would be void, as in opposition to the Constitution. The treaty-making power, or Congress, is not competent to suspend the writ of habeas corpus in time of peace. The provision in the treaty and act of 1848, respecting the functions of the Executive in the matter, are not to be understood as giving the Executive an appellate or controlling power over the Judiciary; but if they imply a right in that department to withhold the delivery of a fugitive, after it shall have been, in the manner pointed out by the treaty and act of Congress, certified by a magistrate that the evidence of criminality is sufficient to sustain the charge against him,

those provisions must be understood as having relation to a political power, and not a judicial one. Reasons of policy, and no doubt newly discovered facts in respect to the criminality of the accused, may induce the President to refuse the extradition; but the possession of a power so to do in no way imports one in him to revise and rectify the proceedings before the magistrate, in the character of a tribunal of appeal or error. The power of the courts and judicial officers of the United States to inquire into the cause of a commitment, purporting to be made under the treaty authority, is no way subordinate to or dependant upon the Executive department; and this objection to the jurisdiction of the circuit court or district judge singly, in that capacity, must be overruled.

The exceptions presented on the part of the prisoner are to the au thority of the commissioner to arrest or commit the prisoner; to his jurisdiction over the subject matter, and in the legality and sufficiency of the proofs upon which he ordered the commitment. These have been the main topics of argument on this protracted hearing. It was my duty to give the arguments a deliberate consideration; but, in determining the case, I do not deem it necessary to examine at large the propositions discussed by counsel, or spread out in full detail the reasons which govern my decision.

In my judgment, the supervision of the court is limited to two general considerations; first, the competency of the committing magistrate to act at all; and, second, his jurisdiction over the case made by the facts in proof; for, if he be a legally appointed magistrate, and the matter of accusation pertained to his jurisdiction, this court, in my opinion, has no other authority by way of habeas corpus than to ascertain whether the evidence of these facts was legally admissible; for it cannot correct or regard either error or irregularity of the officer in conducting the proceedings, or in his final determination. These positions will be succinctly developed, with reference to the principles and authorities upon which they are based. But as notice will be taken of matters not strictly within these points, it is proper to advert to the manner in which the case is presented on both sides.

On the part of the prisoner a right is claimed to file a formal traverse to the return, and offer issue upon averments that no requisition has been made by the British on the American Government for the surrender of the prisoner; that the commissioner who directed his arrest is not a magistrate within the meaning of the treaty, and was never duly appointed or authorized to take cognizance of the proceedings against the prisoner under the statute ; that no legal evidence was adduced to the commissioner to show that the prisoner could be lawfully demanded or surrendered under the treaty, or that he was guilty of any offence described in the treaty.

There is no statutory directions given the courts or officers of the United States as to the method of procedure on writs of habeas corpus, other than in the act of August 12, 1848, which will be noticed particularly hereafter. The act of 31st Charles II may be referred to for

a description of causes of detention against which relief is afforded by the writ; (3 Peters, 202, Watkins' case;) and if it might also supply a fitting rule of practice, there is no privilege given a prisoner by it to controvert the return to a habeas corpus, by pleading or otherwise. The act of 56, George III, authorizes the officer or court to examine into the cause of commitment and the truth of the facts alleged on the return, but it is confined to cases other than of a criminal character. The statutes of this State, and various other States of the Union, adopt similar regulations in criminal cases, (2 Kent, 28, and note,) but none of those acts govern courts of the United States. The proceedings here must accordingly be in conformity with the rules of the common law, and they deny a prisoner the right to traverse the return to a writ of habeas corpus, or demand an issue on the legality of his commitment. (Ba. Ab. Hab. Corp., B. 11; Ingersoll on Hab. Corp., 15, 16; 1 Hill, 659, 660, Cowen's notes.) The paper offered with that object cannot, therefore, be received or acted on by the court as a pleading in the case. Still, the prisoner has substantially the same protection he could expect by way of pleading, because he is allowed to prove, on the return of the writ, by the return itself, or evidence aliunde, that the committing magistrate had no authority to act in the matter, or that there was no legal evidence submitted to him, which tended to criminate the accused. (3 Cranch, 453; Burford's case, 4 ib., 134; Bollman and Swartwout's case, 5 How., 176; Metzger's case.)

The first objection to the competency of the commissioner is, that he is not an officer named and empowered by the treaty nor the act of Congress to arrest a fugitive from justice or order his commitment; or, if he is comprehended within the denomination of officers referred to by the treaty, the treaty of itself gives him no authority to act in execution of its provisions, and the act of Congress affords no aid in that respect, not being adapted to carrying them into effect; and if the descriptions in the act of Congress may be understood as applying to the commissioner, yet the whole act is void, because not in consonance with the treaty, but, on the contrary, contemplates and provides for subjects out of the purview of the treaty compact. Although these objections were dwelt upon with great fulness and earnestness on the argument, I do not deem it necessary to discuss them in any considerable detail. The treaty arrangements are brought into the discussion in so many points of view, that it will tend to give clearness to the subject to set forth the 10th article, by which "It is agreed that the United States and her Britannic Majesty shall, upon mutual requisitions by them, or their ministers, officers or authorities, respectively made, deliver up to justice all persons who, being charged with the crime of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged paper, committed within the jurisdiction of either, shall seek an asylum or shall be found within the territories of the other; provided that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would

justify his apprehension and commitment for trial, if the crime or offence had there been committed; and the respective judges and other magistrates of the two governments shall have power, jurisdiction, and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, that he may be brought before such judges or other magistrates respectively, to the end that evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of such fugitive. The expense of such apprehension and delivery shall be borne and defrayed by the party who makes the requisition and receives the fugitive." (8 Stats. at large, 576.)

The commissioner who performed the services in question was appointed to that office by the circuit court of this district in October term, 1850, by virtue of several acts of Congress relating to the subject; and by act of August 23, 1842 (5 Stats. at large, 516, § 1,) that class of commissioners were authorized to "exercise all the powers that any justice of the peace or other magistrate of any of the United States may now exercise in respect to offenders, for any crime or offence against the United States, by arresting, imprisoning, &c."

The act of appointment authorizes the commissioners designated to take affidavits in civil causes depending in the courts of the United States, and to execute all the powers and perform all the duties authorized or con ferred by the acts of Congress, &c., (enumerating several acts by their titles,) or any other act of Congress having relation to such commissioners in their duties or powers. (Minutes of the United States Circuit Court, January 21, 1851, of October term, 1850; 1 Blatch. C. C. R., Appex.) The thirty-third section of the Judiciary act enacts, that for any crime or offence against the United States the offender may, by any justice or judge of the United States, or by any justice of the peace, or other magistrate of any of the United States where he may be found, &c., be arrested and imprisoned, &c. (1 Stats. at large, 91.) A commissioner in this mode, acquiring all the powers of a justice of the peace or State magistrate, in the arrest and commitment of offenders under the laws of the United States becomes, by such functions, himself a magistrate. The appellation is one of widest significancy, embracing every functionary, from the chief of the government to the lowest subaltern concerned in carrying the laws into execution. (Webster's Dictionary; 1 Black. 248, et 356–7; Burn's Justice; Sims' case, Supreme Court, Mass., April, 1851; 14 Law Rep., 16.) The duties imposed on this class of officers by the acts of Congress referred to, accordingly constitute them magistrates within the manifest import of the treaty.

The act of Congress of August 12, 1848, gives to United States and State judges, and certain commissioners, powers to execute treaty stipulations in this respect, but omits the term magistrates; and, accordingly, if this commissioner does not come within the character of those specified by the statute, he has no authority in this case, except that im-

parted by the treaty. The position of the officer presents two considerations—first, whether, in his character of magistrate, he can take and employ any powers created by the statute, for the purpose of carrying the treaty into effect? And second, whether he can proceed under the treaty itself, and perform the duties therein enjoined upon him, independent of the statutory provision.

Inverting the order of these inquiries, I have no difficulty in declaring that the treaty, without any aid of legislation by Congress, is a law addressed to courts and judicial officers, and furnishes all adequate authority for its own execution. This proposition I regard as definitely settled by the adjudications of the Supreme Court, independent of the imperative language of the Constitution, (1 Cranch, 109, 110, United States vs. Schooner Peggy; 2 Peters, 314; Foster vs. Neilson.) In the first case, the court says, "where a treaty is the law of the land, and as such affects the rights of parties litigating in courts, that treaty as much binds those rights, and is as much to be regarded by the court, as an act of Congress.

In the other, the court says, "our Constitution declares a treaty to be the law of the land. It is consequently to be regarded in courts of justice as equivalent to an act of the legislature, whenever it acts of itself, without the aid of any legislative provision." (5 New York Legal Observer, 87, and cases cited.) In a more recent case, in which a fugitive from justice was arrested in this country by a warrant of an United States judge, under the French convention, appeal was made to the Supreme Court for a habeas corpus, to discharge the prisoner; and the counsel grounded himself in his argument on the position, that the courts of the United States, and the judges of those courts, can exercise no powers of a judicial character, and can possess no jurisdiction, except that which is conferred upon them, under the authority of the Constitution, by act of Congress; and in pressing his argument, the counsel urged it as a conclusive consideration, that the only ground upon which the claim of jurisdiction was rested, before and by the district judge, was that of the treaty stipulations with France, and the means by which he acquired jurisdiction on application addressed to him by the diplomatic agent of the French Government. The Attorney General, in his reply, discussed this position; so that the point was brought directly to the notice of the court. The court, in delivering their opinion in the case, commenced by reciting the provisions of the treaty, and adverting to the objection "that the treaty, without the aid of legislation, does not authorize an arrest of a fugitive from France, however clearly the crime may be proved against him; that the treaty provides for a surrender by the Executive only, and not through the instrumentality of the judicial power," answer, that "the mode adopted by the Executive in the present case seems to be the proper one. Under the provisions of the Constitution, the treaty is the supreme law of the land, and in regard to rights and responsibilities growing out of it, it may become a subject of judicial cognizance. The surrender of fugitives from justice is a matter of conventional ar-

rangement between States, as no such obligation is imposed by the law of nations. Whether the crime charged is sufficiently proved, and comes within the treaty, are matters for judicial decision; and the Executive, when the late demand for the surrender of Metzger was made, very properly, as we suppose, referred it to the judgment of a judicial officer. The arrest which followed, and the committal of the accused, subject to the order of the Executive, seems to be the most appropriate, if not the only mode of giving effect to the treaty. (5 How. R., 176, Metzger's case.)

I find no authority controverting the rule laid down by the Supreme Court in the above decisions, other than a decision by a State magistrate, in the case of Metzger, on habeas corpus, discharging him from the warrant issued by the President for his extradition, and setting him at liberty, because the United States judge had no jurisdiction in the matter, under the treaty, without the aid of an act of Congress. This decision was placed upon the authority of a judgment rendered in England by a court of sessions, on the effect of an English treaty; and what gives the more remarkable aspect to the interference and conclusions of the State judge is, that his opinion was pronounced after the decision of the Supreme Court, and with that case before him. (N.Y. Legal Observer, 367, Metzger's case;) S. C., 3 Barb. S. C. Rep., 248.

Considering the proceedings before the commissioner as taken under the authority of the treaty alone, it appears to me the return shows enough to give him jurisdiction of the case. Complaint was made to the commissioner, under oath, that the prisoner had committed an assault, with intent to murder one James Balfe, in Ireland, and had fled from justice there to the United States, and was then within this district, and praying his arrest under the treaty. The commissioner issued a warrant under which the prisoner was arrested on that charge, on the 15th of June last, and on the 29th of the same month he issued and delivered to the marshal a warrant or order, to the following tenor:

"*In the matter of Thomas Kane.*

"This case having been heard before me, on requisition through Anthony Barclay, esq., her Britannic Majesty's consul at the port of New York, that the said Kane be committed for the purpose of being delivered as as fugitive from justice, pursuant to the provisions of the treaty made between the United States and Great Britain, August 9, 1842; I find and adjudge, that the evidence produced against the said Kaine is sufficient in law to justify his commitment on the charge of assault with intent to commit murder, had the crime been committed within the United States. Wherefore, I order that the said Thomas Kaine be committed, pursuant to the provisions of the said treaty, to abide the order of the President of the United States in the premises.

"Given under my hand and seal," &c.

No evidence contradicting the averments in these warrants is produced on the part of the prisoner; but the original evidence upon which

the commissioner acted is, by consent of both parties, laid before the court, and the fact that such requisition and complaint on oath, and the further fact, that other evidence to prove the commission of the crime in Ireland by the prisoner was produced on the hearing, is indisputably established.

The treaty does not, as is supposed by the counsel for the prisoner, provide that the requisition for the arrest of a fugitive shall be made by one government to the other. It will bear the interpretation that the first application may be made by complaint on oath, to a judge or magistrate, without the intervention of either nation.

The act of August 12, 1848, most plainly signifies that Congress so understood the obligations of the treaty on our part, and means it shall be executed in that sense. But if, to initiate the jurisdiction of a magistrate under the treaty, it be necessary that a requisition be made for the arrest and commitment of a fugitive, I am of opinion the application in that behalf of a resident consul sufficiently satisfies the terms of the treaty, he being, by the common usage of nations, the agent of his government in municipal matters not strictly of a diplomatic character. (Vattel, Law of Nations, B. 2, § 34; 1 Kent, 42; Wheat. International Law, 168, § 11; Henshaw's Manual of Consuls, 21, 22,) and in that sense may be regarded an officer or proper authority within the contemplation of the treaty; and it is to be observed, that the act of Congress gives jurisdiction of the subject to judges and commissioners, without allusion to any requisition preceding or accompanying the complaint on oath. The same remark applies to the manner in which magistrates are authorized to act by the treaty in the arrest and commitment of the fugitive; and the mutual requisitions spoken of by it would, therefore, seem confined to the demand of the criminal to be delivered up. This being an Executive act, would properly be claimed by a diplomatic requisition addressed to the government.

No doubt, in general practice, a call on the government either precedes the application to a magistrate to arrest and detain the supposed fugitive, or is concurrent with it. Still, I think the terms of the treaty are satisfied, if the competent ministers, officers, and authorities of Great Britain prefer their application, under the treaty, in the first instance to a judge or magistrate; and that the judge or magistrate may, therefore, take action in the matter without any communication with his own government.

There being no evidence to this particular, other than the return and the requisition addressed by her Britannic Majesty's consul to the commissioner, it is to be assumed that the United States Government had given no instruction or request that the subject should be acted upon by a judicial officer here; yet, in my opinion, the authority of the commissioner to take cognizance of it, on the application to him, was complete by force of the treaty.

Another jurisdictional fact must, however, be established before the commissioner acquires full authority to adjudge in the case, although the subject matter be within his general jurisdiction as the proper ma-

gistrate to hear it, and that is, evidence that the crime pointed out by the treaty had been committed. The proceedings before the magistrate are to be regarded as now before the court, to the same effect as if brought there by certiorari; and, in inquiring into the cause of commitment, the court must see that there is probable cause to believe the prisoner committed the offence charged against him; (4 Dall. 413, The United States vs. Burr, 1 Burr's trial, 11, 97.) Hence this writ on habeas corpus will do no more than determine whether there was legal evidence upon the face of the papers conducing to prove such probable cause; (Ingersoll on Hab. Corp., 28; 3 Cranch, 148.) It belongs to the magistrate to decide upon the credibility and effect of the testimony, and his decisions cannot be revised here; (4 Barb. S. C. Rep., 35, Bennac's case.) The form of the proof is not so material on an application to answer and commit, as on a trial; because any magistrate may commit on an affidavit taken before another; (4 Cranch, 128, 129, Bolman and Swartwout's case.) And even if the evidence on the arrest and commitment of the accused was wholly irregular, and insufficient to authorize the detention of the prisoner, the court will not discharge him on habeas corpus, if, on looking into the case, they find probable cause for detaining him, but will bail or remand him at discretion; (1 Chitty C. La., 129.)

The original deposition and information proving the crime was not produced. A certified and sworn copy was given in evidence. This is not competent proof at common law, and unless the provisions of the act of Congress, authorizing inferior evidence, may be resorted to when the proceedings are instituted under the treaty alone, there would be no legal evidence tending to charge the crime upon the prisoner. There is some technical difficulty in appropriating the provisions of the act to a proceeding wholly under the treaty, as the present must be, if the commissioner is not an officer empowered by the statute to take cognizance of the matter, inasmuch as the wording of the second section seems to import that the mode of proof authorized thereby is limited to the particular offences named by the statute: "In every case of complaint as aforesaid," are the terms of reference connecting the subject matter of the two sections, and should be understood, in the absence of all other evidence of the intention of Congress, as restricting the statutory proof to a proceeding under the statute. The title to the act denotes a broader purpose, and that the statute was not enacted with a view to communicate jurisdiction to the various judges and commissioners therein referred to, but to aid and amplify the powers derived by them from the treaty. It is "An act for giving effect to certain treaty stipulations between this and foreign governments, for the apprehension and delivering up of certain offenders." This language plainly signifies, that the legislature intended to supply an auxiliary to the treaty stipulations; and there being nothing in the enactment of the second section necessarily confining its operation to a proceeding before the officers named in the first, it would be giving no more than reasonable effect to it to consider the method of proof thereby authorized as alike applicable

to a complaint made directly under the treaty. The terms of the section are: "That in every complaint as aforesaid, and of a hearing upon the return of the warrant of arrest, copies of the deposition upon which an original warrant in any such foreign country may have been granted, certified under the hand of the person or persons issuing such warrant, and attested upon the oath of the party producing them, to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended." The authenticating evidence in this case was prima facie sufficient to justify the commissioner receiving the complaint and deposition, and that, with the corroborative evidence produced, was pertinent to prove the crime charged, and that it was committed by the prisoner, and this court has no capacity in law to decide that the magistrate determined these points erroneously. This doctrine is fully sanctioned by the supreme court of this State, when the habeas corpus is issued under the State statute; (4 Barb. R., 35, Bennac's case.) In my opinion, accordingly, the habeas corpus must be dismissed, even if the commissioner had no jurisdiction in the matter other than what he derived from the treaty, because nothing was done before him in any way conflicting with the directions of the statute, and because the provisions of the second section of the act apply as well to a magistrate acting under the treaty as to the officers designated by the statute, and give to the copy of the original deposition the same effect as the original would have had in law if made in this country.

But, in my opinion, the commissioner comes also under the description of officers named in the act, and all the proceedings before him were fairly within its purview.

Before stating the reasons for this conclusion, it is proper to advert to an objection raised on the part of the prisoner, that Congress, in the enactment of the statute, has gone out of and beyond the stipulations of the treaty, and the treaty being the supreme law of the land, the statute becomes thus nugatory and void. I am not able to discover such discordance between the two laws as that one must necessarily displace the other; on the contrary, I think they substantially coincide in those particulars upon which both operate, and that the differences between them are no more than that the legislature has extended its enactments beyond the provisions of the treaty. The inquiry, consequently, is not which authority must prevail, if both cannot be executed, but whether Congress is debarred by the existence of a treaty from adopting new and more enlarged regulations upon the topics embraced within the treaty compact. The legislation, it is to be observed, is wholly domestic and infra-territorial, and does not assume to interdict or diminish the engagements of the treaty. It would seem that this statement of the action of Congress would, of itself, supply an answer to the objection. It is incontestibly within the competency, and at the discretion of Congress, to provide by law for the extradition of criminals escaping from foreign countries to this, without regard to any reciprocal obligations on the part of the home country of the fugitive towards us. This is entirely a matter of domestic policy. The provision may

be merely to expel them from our territories, or to re-convey them to the country from which they fled, as may be most consonant with our security or interests; and no one can question the right of the Government to enforce such a law within our own dominions. Had this statute directed the delivery upon requisition, or the expulsion without demand, of British subjects, guilty of other crimes committed abroad than those enumerated in the treaty, no well grounded objection, in my judgment, could be taken to the validity of the law. Whether, then, the act of August 12, 1848, be regarded as merely auxiliary to the treaty, or a substantive law taking effect independently of any treaty compact, the powers imparted and the directions given by it would be of like obligation and effect in the federal court. The point now under consideration can only be of moment in case the commissioner who acted in this matter is not an officer named in the law, for if the description in the statute embraces this officer, then all foundation for the objection is removed, as he is clothed with all the powers conferred by the act. The enactment is, "it shall and may be lawful for any of the justices of the Supreme Court, or judges of the several district courts of the United States, and the judges of the several State courts, and the commissioners authorized so to do by any of the courts of the United States, are hereby severally vested with power, jurisdiction, and authority, upon complaint made on oath," &c.; and the 6th section provides, "That it shall be lawful for the courts of the United States, or any of them, to authorize any person or persons to act as commissioner or commissioners under the provisions of this act; and the doings of such person or persons so authorized, in pursuance of any of the provisions aforesaid, shall be good and available to all intents and purposes whatever."

The enactments taken together empower commissioners already in office to execute the act when authorized so to do by any of the courts in the United States, as also such commissioner or commissioners as may be especially designated and appointed by such courts to that particular service. The difference between the act and treaty in this particular consists in substituting for "magistrates," named in the latter, "commissioners" referred to in the former; and accordingly, instead of all magistrates of the general and State governments being employed by the legislature to perform the service, the authority is limited to judges as a portion of that generic class; and commissioners of the United States courts, in their capacity of magistrates solely, would be excluded from jurisdiction under the act. They must be authorized to take cognizance of the subject by some court of the United States, (sec. 1,) or be specifically appointed to that duty, (sec. 6,) to constitute them the officers described by the act.

I think the rule of the circuit court for this district, adopted in October term, 1850, and entered upon the minutes of the court Jan. 21, 1851, fulfils either or both requirements of the law. That rule designates and appoints various ex officio persons (of whom the commissioner in this case was one) commissioners to execute all the powers and to perform all the duties authorized and empowered by any act of

Congress having relation to such commissioners, or their duties or powers. The same rule in substance had been in force within this district since 1838, and the commissioners, by virtue of such appointment, had performed the duties of judges and magistrates in criminal matters subsequent to the act of August 23, 1842, and notoriously superseded, in that respect, the employment of State judges and magistrates; and, except in capital cases of extraordinary importance, they relieved the United States judge of that duty also in this district. It is believed such was the case pretty universally throughout the United States, and that persons accused of crimes against the United States were arrested, examined, committed, or bailed by this class of officers; and no other standing commissioners are known to the practice of the United States courts, or are authorized by its laws to be appointed by the courts. In 1842 Congress had conferred criminal jurisdiction on these officers. It is obvious, from the first section of the act of 1848, that a class of commissioners being in office, and exercising similar powers with those then conferred, were in the contemplation of Congress; and it would be giving no more than the ordinary effect to the language of the first section, to understand it as applying to commissioners so appointed by the circuit courts, or district courts exercising circuit court powers, as to be authorized to take cognizance of criminal accusations.

In this aspect of the subject there might be fair room to question whether any new action of the courts could be requisite to authorize such commissioners to take proceedings under the act of 1848. They might be reasonably intended to be so authorized by virtue of the plenary powers conferred by their original appointment, or even by the mere fact of being appointed, because the jurisdiction in matters of a criminal character, enlarged or varied from time to time by Congress, might well be regarded as incident to their office.

This topic need not, however, be pursued, inasmuch as the circuit court of this district, after the passage of the act of August 12, 1848, republished the standing order of appointment with additions and alterations, not diminishing any way the powers the commissioners previously had, but manifestly designed to confer on them jurisdiction in all cases within the competency of the court to grant. The language of the appointment appears to have been studiously chosen, with a view to give those officers a capacity to act in any matter which, by appointment of any existing act of Congress, appertained to commissioners created by the court. I can perceive no reason to question that the order of 1850 authorizes the commissioners in office to do every act in that capacity which the court could empower them to perform, and is a full execution of the authority given the court by the first and sixth sections of the act of 1848, as completely such as if the act had been recited in the order of the court.

If, under any reasonable rules of construction, the sixth section of the act of 1848 might be held to require an appointment of commissioners to act under the treaties referred to, toties quoties, as the particular

cases occur, I suppose it might still be an adequate fulfilment of that requirement to designate by a standing order those commissioners, or any one of them, as the commissioner to that end; and such permanent designation would be no less efficacious than if reiterated on the happening of every case calling for his action.

But it is needless to theorize on that subject. Comparing the order of the court with the terms of the statute, I am of opinion that the commissioner in this instance was authorized to take cognizance of the case under the statute, and that there was produced before him legal evidence to prove all the facts necessary to the exercise of his jurisdiction over the case; and the evidence, it appears to me, showed at least probable cause for the arrest of the prisoner. His offence not being bailable here, the court has no power in such case other than to remand him under his original commitment.

Whether the proofs were produced solely under the authority of the treaty or that of the statute, I hold the commissioner to be clothed with competent authority; and having also jurisdiction over the subject, and there being before him legal evidence tending to prove that the offence charged against the prisoner, and named in the treaty, was committed by him, the writ of habeas corpus allowed in this case must be discharged, and the prisoner be remanded to the custody of the marshal, under the commitment of the commissioner.

Schedule F.

DEPARTMENT OF STATE, *Washington, July* 17, 1852.

To all whom these presents shall come, greeting:

Whereas, John F. Crampton, envoy extraordinary and minister plenipotentiary to her Majesty the Queen of Great Britain and Ireland, hath made requisition, in conformity with the 10th article of the treaty between the United States and Great Britain, for the mutual surrender of fugitive criminals, concluded at Washington the 9th day of August, 1842, for the delivery up to justice of Thomas Kaine, charged with the crime of assault with intent to commit murder, in the county of Westmeath, Ireland.

And whereas the said Thomas Kaine hath been found in the State of New York, within the jurisdiction of the United States, and has, by proper affidavit, and in due form, been brought before Joseph Bridgham, a commissioner duly appointed by the United States circuit court for the southern district of New York, in the second circuit, for examination of said charge of assault with intent to commit murder. And whereas the said commissioner hath deemed the evidence sufficient to authorize the commitment of said Thomas Kaine, and has, accordingly, committed him. All of which appears by a copy of the proceedings transmitted to this department.

Now these presents are to require of the United States marshal for he southern district of New York, or of any other public officer or

person having charge or custody of said Thomas Kaine, to surrender and deliver him up to Anthony Barclay, her Britannic Majesty's consul at the port of New York, or to any other person or persons duly authorized to receive said fugitive, and conduct him to Great Britain for trial.

In testimony whereof I have hereunto signed my name, and caused the seal of this Department to be affixed, at Washington, this [SEAL.] 17th day of July, A. D. 1852, and of the independence of the United States the seventy seventh.

(Signed) W. HUNTER,
Acting Secretary of State.

On the hearing before said circuit court, the counsel for the petitioner gave in evidence, to show what proceedings had taken place before Commissioner Bridgham, the minutes of such proceedings, as already set out, with all the exhibits therein referred to, and the general rule of court, under which the said Bridgham was appointed commissioner, was also read in evidence in support of the return. It is as follows:

"At a stated term of the circuit court of the United States of America, for the southern district of New York, in the second circuit, held at the City Hall, in the city of New York, on Monday, the twentieth day of January, in the year of our Lord one thousand eight hundred and fifty-one—

"Present, the honorable Samuel R. Betts.

"Ordered, That the clerk of this court and the clerk of the district court of the United States for the southern district of New York, and also the chief clerk or deputy of each of said clerks (such chief clerk or deputy being designated in writing by the clerk appointing him, and the appointment being approved by the circuit judge of this circuit, or in case of his absence from the district by the district judge, and such designation with the approval endorsed thereon being filed in his office by each of the said clerks respectively,) and also the standing masters in chancery appointed by this court, and also the county judge of each county within the southern district of New York, other than the county of Kings and the city and county of New York, (if the said officers before named shall be each of the degree of counsellor at law of this court, or of the supreme court of the State of New York,) whether said officers are in office at the time of making this order, or shall be subsequently appointed or elected thereto, shall be, whilst holding such office, *ex officio* commissioners of this court; and each of such officers whilst in office is hereby appointed a commissioner to take affidavits in civil causes depending in the courts of the United States, and to execute all the powers, and perform all the duties, authorized or conferred by the acts of Congress, entitled "An act in addition to the act entitled an act to establish the judicial courts of the United States," approved March 2, 1793; and the act of Congress, entitled "An act for the more convenient taking of affidavits and bail in civil causes depending

in the courts of the United States," approved February 20, 1812; and the act of Congress, entitled "An act in addition to an act, entitled 'An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" approved March 1, 1817; and the act of Congress, entitled "An act further supplementary to an act, entitled 'An act to establish the judicial courts of the United States,'" passed the 24th September, 1789, approved August 23, 1842; and the act, entitled "An act to amend, and supplementary to the act, entitled 'An act respecting fugitives from justice, and persons escaping from the service of their masters,'" approved February twelfth, one thousand seven hundred and ninety-three, approved September 18, 1850, or of any other act of Congress having relation to such commissioners, and their duties or powers."

COOPERSTOWN, *August* 11, 1852,
At Chambers.

The marshal having made the within return, ordered, that, in consequence of the difficult and important questions involved in the case, it be heard before all the justices of the Supreme Court in bank at the commencement of the next term thereof; and that in the mean time the prisoner remain in the custody of the said marshal.

S. NELSON.

Opinion of the Hon. Judge Nelson, on granting the writ of habeas corpus, returnable before the Supreme Court of the United States.

In the matter of Thomas Kaine, claimed as a fugitive from justice, under the treaty between the United States and Great Britain, of the 9th August, 1843.

Nelson, J.—This is an application on the relation of Kaine, for a writ of habeas corpus, a prisoner in jail, under the custody of the marshal for the southern district of New York, charging that he is detained in prison by virtue of an order made by the circuit court of the United States of said district, dated July 9th, 1852, of the April term of said court, purporting to be made under the treaty between the United States and Great Britain, of the 9th of August, 1842, and which order remands the prisoner to the custody of the said marshal, to be detained under a commitment previously made by Commissioner Bridgham, under the provisions of the aforesaid treaty; and that since the granting of the said order by the circuit court, the acting Secretary of State for the United States has issued a warrant directing the marshal to surrender the prisoner to the Government of Great Britain, in pursuance of the provisions of said treaty.

The case having been fully heard in the original proceedings before the commissioner, in accordance with the requirements of the treaty, and the act of Congress in pursuance thereof, and the decision of that officer, committing the prisoner for the purpose of a surrender to the authorities of Great Britain, as a fugitive from justice, having been sub-

sequently revised and confirmed by the circuit court, I have declined granting the writ of habeas corpus, or taking any step in the matter of the application, until the whole of the previous proceedings in the case, including the evidence, points of counsel before the commissioner, and opinion of the court, were laid before me, that I might be fully apprised of the grounds of the commitment, and of the objections to the same.

It is proper to say, also, that I have entertained the case and called for these proceedings, not with a view to an original hearing of the matter on habeas corpus, for the purpose of passing upon the legality or illegality of commitment by the commissioners, or with a view to a revision of the order of commitment by the circuit court, and a final disposition of the same at chambers, but solely for the purpose of ascertaining whether or not the questions involved, or any of them, were of a character so difficult and doubtful, and their final determination by the highest authority was of sufficient public interest to require or justify the submission of them to the Supreme Court of the United States. By a series of decisions in that court, the questions involved present appropriate subjects of examination in the exercise of its appellate powers. (3 Cranch, 448; 4 ib., 75; 7 Wh. 38; 3 Peters, 193; 7 ib., 568; 5 How., 189, 190.)

Looking at the case in this aspect, and with this view, I find the first and leading allegation is, to the legality of the commitment by the commissioner, (and the lawfulness of the detention of the prisoner depends on this, as will be seen hereafter,) namely, that he possessed no jurisdiction in the case, and consequently that the warrant of commitment was void. The treaty provides, "that the respective judges and other magistrates of the two governments shall have power, jurisdiction, &c., to issue a warrant," &c.

The act of Congress, 12th Aug., 1848, passed to give effect to the provisions of this treaty, with others, for extradition, provides, "that it shall and may be lawful for any of the justices of the Supreme Court, or judges of the several district courts of the United States, and the judges of the several State courts, and commissioners authorized so to do by any of the courts of the United States, are hereby severally vested with powers, jurisdiction," &c. Another section provides, "that it shall be lawful for the courts of the United States, or any of them, to authorize any person or persons to act as commissioner or commissioners under the provisions of this act," &c.

The commissioner before whom the proceedings were had, has not been appointed, under and in pursuance of this act of Congress, as one of the officers to carry into execution the provisions of the treaty, but acted in pursuance of his powers, derived from an appointment under previous acts of Congress, for the discharge of other special and limited duties; and, were it not for a contrary opinion expressed by the learned district judge sitting in the circuit, I should have entertained a very decided opinion that he possessed no power under the act of 1848 to entertain the proceedings in question; and, that an appointment by the court, in pursuance of the power conferred by that act, was essential to give the commissioner jurisdiction.

It is said, however, that admitting the commissioner possessed no jurisdiction under and in pursuance of the act of 1848, still he was competent to act under and by virtue of the power conferred by the treaty, independently of the act of Congress; and, that the limitation of authority by the act could not control the provisions of the treaty, even if in conflict with them. We have seen that, according to the treaty, "the respective judges and other magistrates of the two governments" are empowered to arrest and examine the fugitive; and the argument is, that the commissioner is a magistrate of the Government of the United States, within the meaning of the treaty.

Besides taking bail, and depositions of witnesses in civil cases, these officers, by the act of Congress of 23d August, 1842, are authorized to arrest offenders for any crime or offence against the United States, and imprison or bail the same. The thirty-third (33) section of the Judiciary act conferred the same power upon justices of the peace of any of the States.

The possession of these powers by the commissioner whose proceedings are in question constituted him, as alleged, a magistrate within the terms of the treaty, and by virtue of which, as such magistrate, he had a right to act in the premises, notwithstanding the omission, if not exclusion, of these officers by the terms of the act of Congress passed to carry into execution the provisions of the treaty. Whether or not this view will sustain the competency of the commissioner to act under the treaty, independently of any power conferred upon him by the act of 1848, is a question upon which I do not propose, at this time, to express an opinion.

It is sufficient to say that it is one, at least, involved in much difficulty and doubt, and well deserves the consideration and judgment of the Supreme Court. If the view is a sound one, it would seem to follow, that all justices of the peace, in the several States, possess the like powers to arrest and commit under the treaty, by virtue of their characters as magistrates derived from the powers conferred under the thirty-third (33) section of the Judiciary act of 1789. We can hardly suppose this to have been the intention of the framers of the treaty.

Another ground of objection to the jurisdiction of the commissioner is, that it was not shown before this officer, previous to the institution of the proceedings, or pending the same, that the Government of Great Britain, or any officers authorized by the Government, had applied or made a demand, for the arrest of Kaine under the treaty; and that an application on behalf of that Government was essential to give jurisdiction to act in the matter.

The treaty provides, "that the United States and her Britannic Majesty shall, upon mutual requisitions by them, or their ministers, officers, or authorities, respectively made, deliver up to justice all persons," &c. In this case the application for the arrest was accompanied by a request from the British consul, resident in the city of New-York, which would seem to bring the case within the words of the treaty. The act of Congress is silent on the subject.

The language of the treaty is very broad, and if construed literally would confer authority upon any officer of the British Government, however subordinate, and whether civil or military, to make the necessary requisition upon this for the arrest of the fugitive, and so in the case of a requisition of this Government upon Great Britain. But this can hardly be the true construction to be given to the treaty. There must be some limitation in respect to the officers of the respective governments authorized to make the requisition.

There may be some difficulty in settling this limitation in the absence of any regulation by act of Congress. Perhaps the true construction may be, that the requisition shall be made by the government, through the usual organs by which the one holds communication with the other, or by any minister or officer, specially authorized by such government to make the same.

It would scarcely seem fit, as it respected either government, that this power to claim, as prosecutor, an arrest and committal of the supposed fugitive should be lodged in the hands of every and any officer of the same who might choose to act in the matter. The act of Congress provides, that in every case of complaint, and of hearing upon the return of the warrant of arrest, copies of the depositions upon which an original warrant in any such foreign country may have been granted, certified under the hands of the person or persons issuing such warrant, and attested upon the oath of the party producing them to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended.

This provision makes copies of the depositions used before a foreign magistrate who may have issued a warrant there against the offender, certified by said magistrate, and proved to be true copies of the original, competent evidence before the magistrate here acting under the treaty.

The act of Congress, doubtless, contemplates that the copy of depositions shall be certified by a magistrate in the foreign country, of competent jurisdiction to issue the warrant there for the offence, and to commit for trial and punishment; and to make these evidence at all before the magistrate here under the requisition, it should be first shown to his satisfaction, by competent proof, that the person issuing the warrant, and certifying the depositions, possessed the requisite jurisdiction.

Without such jurisdiction, the whole proceedings in the foreign country would be *coram non judice*, and void. Upon the whole, without pursuing the case any further, I am satisfied, upon the view I have taken of the several questions presented, but more especially the first one, involving the power of the commissioner, as well as on account of the importance of settling the construction of the treaty and the act of Congress in pursuance thereof, so as to avoid controversies and delays hereafter in these proceedings, it is fit and proper that these questions should be submitted to the consideration and judgment of the Supreme Court.

As I have already stated, the commitment of the prisoner stands

upon the authority of the commissioner, the circuit court being of opinion that it was legal and valid, and remanding the prisoner to custody under that order.

I shall, therefore, allow the *habeas corpus*, making it returnable before myself; and when the return is made formally by the marshal, (the substance of which is now before me in the preliminary application,) I shall direct an order to be entered, in consequence of the difficult and important questions involved, that the case be heard before all the justices of the Supreme Court of the United States, in banc, at the beginning of the next term of said court.

As the making up of the record will be matter of form, it will not be necessary that the prisoner be brought up on the return of the writ before me, but he may remain in custody till the final disposition of the case.

Petition for writ of habeas corpus presented to Justice Nelson.

To the honorable the justices of the Supreme Court of the United States.

The petition of Thomas Kaine respectfully showeth:

That he is restrained from his liberty by, and is now a prisoner in jail under the custody of, the United States marshal for the southern district of New York, and that he is detained and confined therein under and by virtue of an order made by the honorable Samuel R. Betts at a term of the circuit court of the United States, dated the 9th of July, 1852, (and of which order a copy is hereto annexed,) against your petitioner as an alleged fugitive from justice, under the provisions of the treaty made between the United States and her Britannic Majesty's Government on the 9th day of August, 1842. That since said order was made the acting Secretary of State has signed and delivered a warrant for the surrender of your petitioner to the British authorities.

And your petitioner further shows, that he is advised by his counsel, and verily believes, that his imprisonment is illegal, and in violation of the rights of your petitioner.

Wherefore, your petitioner prays that a writ of habeas corpus may issue from this honorable court, to be directed to the marshal of the southern district of the State of New York, or to such other persons as may hold or detain your petitioner under and by virtue of said order, commanding him or them to have the body of your petitioner before this honorable court, at such time as in said writ may be specified, for the purpose of inquiring into the cause of the commitment of your petitioner, and to do and abide such order as this honorable court may make in the premises.

And your petitioner, &c.

THOMAS KAINE.

Sworn to before me this 22d day of July, 1852.

JOHN W. NELSON,
U. S. Commissioner.

(*Schedule annexed to the petition.*)

At a stated term of the circuit court of the United States of America, for the southern district of New York, in the second circuit, held at the City Hall, in the city of New York, on the ninth day of July, in the year of our Lord one thousand eight hundred and fifty-two.

Present, the honorable

In the matter of Thomas Kaine, a prisoner, and claimed as a fugitive from justice.

The prisoner, Thomas Kaine, having obtained a writ of habeas corpus, allowed by and returnable before Judge Betts, on his petition, setting forth that a decision had been made by Joseph Bridgham, esq., a United States commissioner, in a matter then pending before him, on which, upon the requisition of Anthony Barclay, esq., her Britannic Majesty's consul for New York, the petitioner was arrested by virtue of a warrant issued by the said Commissioner Bridgham, and which decision, the petitioner alleged, was contrary to law and in violation of the rights of the petitioner. Now, on the return of such writ of habeas corpus and documents connected therewith, and other papers put in and read, and after hearing Mr. James T. Brady and Mr. Busteed, of counsel for the prisoner, and Mr. Edwards as counsel for the claimant, (the British Government,) it is ordered by this court that the said writ of habeas corpus allowed in this case be dismissed, and that the said prisoner be remanded, and continued in the custody of the marshal of this court, under such his arrest and commitment by the aforesaid process.

A copy:

JOHN W. NELSON, *Clerk.*

Writ of habeas corpus allowed by Justice Nelson.

The President of the United States of America, to the United States marshal for the southern district of the State of New York, or to any other person or persons having the custody of Thomas Kaine, greeting:

[Seal of the circuit court of the southern district of New York.]

We command you that you have the body of Thomas Kaine, by you imprisoned and detained, as it is said, together with the cause of such imprisonment and detention, by whatsoever name the said Kaine may be called or charged, before our justices of our Supreme Court of the United States, at his chambers in Cooperstown, New York, on the 11th day of August, instant, to do and receive what shall then and there be considered concerning the said Thomas Kaine.

Witness, Samuel Nelson, esq., one of our justices of our said court, this third day of July, eighteen hundred and fifty-two.

RICHARD BUSTEED,
Attorney for petitioner.

In the matter of Thomas Kaine.

(*Endorsed.*)

Rec'd, Aug. 7th, '52, ½ past 10 o'clock. U. S. Supreme Court. In the matter of Thomas Kaine. Habeas corpus. R. Busteed, attorney for petitioner.

Allowed this 3d August, 1852.

S. NELSON.

Marshal's return.

I, Henry F. Tallmadge, United States marshal for the southern district of New York, do certify, that Thomas Kain, the person in the annexed writ named, came into my custody, and that I took him in custody under and by virtue of a warrant of Joseph Bridgham, United States commissioner for the southern district of New York, dated the 15th day of June, 1852, and the commitment of said commissioner, dated the 29th day of June, 1852, and remained in my custody under and by virtue of an order of Samuel R. Betts, esq., made in the circuit court of the United States, for the southern district of New York, dated the 9th day of July, 1852, who had granted a writ of habeas corpus, and after a full hearing dismissed the said writ and remanded the said Thomas Kain to the custody of me, the said marshal, to await the action of the Department of State.

And I also certify, that I hold and detain the said Thomas Kain in my custody under and by virtue of a warrant from the Department of State, dated the 17th day of July, 1852, whereby I am required to surrender and deliver up the said Thomas Kain to Anthony Barclay, her Britannic Majesty's consul at the port of New York, or to any other person or persons duly authorized to receive him and conduct him to Great Britain for trial. And I further certify, that under such warrant, and prior to the receipt by or service on me of the said annexed writ, and under the said warrant of extradition, I did personally tender to the said Anthony Barclay the said Thomas Kain, and the said Anthony Barclay expressed his readiness to receive him; and it was while arrangements were about to be made, under the direction of the said Anthony Barclay, for the putting on board ship of the said Thomas Kain for Great Britain for trial, that such writ (hereto annexed) was served on me. Also I certify, that since the service on me of the said annexed writ, that the said Anthony Barclay has demanded of me the surrender and delivery up to him of the said Thomas Kain, under the said warrant of extradition, so that he may be conducted to Great Britain for trial. And I further certify, that on the 20th day of July, 1852, a writ of habeas corpus, (hereto annexed,) allowed by J. S. Bosworth, one of the judges of the superior court of the city of New York, was served upon me, returnable before him on the 21st day of July last; that in pursuance of said writ I made my return, a copy of which is hereto annexed, and after several adjournments, an order was entered on the 10th day of August instant, on motion of the counsel for said Kain, dismissing the said writ of habeas corpus so granted by the said J. S.

Bosworth; and I have hereto annexed a copy of the order of the said Samuel R. Betts, esq., and also copies of the aforesaid warrants, and the originals I produce.

Dated the 11th day of August, 1852.

H. F. TALLMADGE,
United States marshal for the southern district of New York.

The President of the United States of America, to the marshal of the United States for the southern district of New York, and to his deputies, or to any or either of them:

Whereas, under just suspicions, complaint hath been made under the treaty between the United States and her Majesty the Queen of Great Britain and Ireland, concluded and signed at Washington on the 9th day of August, 1842, on oath, before me, the undersigned, Joseph Bridgham, esq., one of the commissioners appointed by the circuit court of the United States for the southern district of New York, (a magistrate,) that one Thomas Kaine, or Kane, or Cane, then of Coolen, in the county of Westmeath, in that part of the dominion of the said Queen called Ireland, did, on or about the fifth day of April, in the year one thousand eight hundred and fifty-one, at Coolen aforesaid, and within the jurisdiction of the said Queen, feloniously and maliciously fire a pistol loaded with powder and lead at one James Balfe, with the intent to murder him, and thereby then and there did wound the aforesaid James Balfe; and that the said Thomas Kane, or Kaine, or Cane, is a fugitive from justice in relation thereto, and is now somewhere within the jurisdiction of the United States court for the southern district of New York.

We, therefore, command you forthwith to take the said Thomas Kane, or Kain, or Cane, and bring him before me, the said commissioner, or any other magistrate, to the end that the evidence of criminality may be heard and determined, pursuant to the treaty aforesaid.

Witness my hand and seal, this fifteenth day of June, in the year one thousand eight hundred and fifty-two, and of the independence of the United States of America the seventy-sixth.

JOSEPH BRIDGHAM, [SEAL.]
U. S. Commissioner for the southern district of New York.

CHARLES EDWARDS,
Attorney, New York.

(*Endorsed.*)—*Warrant against Thomas Kane.*

I hereby depute Wm. W. Lyon and Aury Snedicker, or either of them, to execute the within process.

Dated 15th June, 1852.

(Signed) H. F. TALLMADGE,
U. S. marshal.

CHARLES EDWARDS, *Attorney.*

June 17th, 1852.—Committed for examination.

JOSEPH BRIDGHAM, *U. S. Commissioner.*

June 29th, 1852 —Committed to await the requisition of theSecretary of the United States, this 29th day of June, 1852.

JOSEPH BRIDGHAM,
U. S. Commissioner.

UNITED STATES OF AMERICA,
Southern district of New York, ss.

In the matter of Thomas Kaine.

This case having been heard before me on requisition through Anthony Barclay, esquire, her Britannic Majesty's consul at the port of New York, that the said Kaine be committed for the purpose of being delivered as a fugitive from justice, pursuant to the provisions of the treaty made between the United States and Great Britain, August 9th, 1842:

I find and adjudge that the evidence produced against the said Kaine is sufficient in law to justify his commitment on the charge of assault with intent to commit murder had the crime been committed within the United States.

Wherefore, I order that the said Thomas Kaine be committed, pursuant to the provisions of the said treaty, to abide the order of the President of the United States in the premises.

Given under my hand and seal at the city of New York, this twenty-ninth day of June, one thousand eight hundred and fifty-two.

JOSEPH BRIDGHAM, [SEAL.]
U. S. Commissioner southern district of New York.

To the marshal of the southern district of New York.

The President of the United States, to Henry F. Tallmadge, marshal for the southern district of New York.

[SEAL.] Greeting: We command you that you have the body of Thomas Kain, by you imprisoned and detained as it is said, with the true time and cause of such imprisonment and detention, by whatsoever name he shall be called or charged, before the United States circuit court for the southern district of New York, forthwith to do and receive what shall then and there be considered necessary concerning him, and have you then there this writ.

Witness Roger B. Taney, chief justice of the Supreme Court of the United States, the 1st day of July, A. D. 1852.

Signed, JOHN W. NELSON, *Clerk.*

Endorsed.

Habeas corpus allowed on the affidavit of Thomas Kain, returnable forthwith.

July 1st, 1852.

Signed, SAMUEL R. BETTS.

At a stated term of the circuit court of the United States of America,

for the southern district of New York, in the second circuit, held at the City Hall, in the city of New York, on the ninth day of July, in the year of our Lord one thousand eight hundred and fifty-two.

Present, the honorable Samuel R. Betts, district judge.

In the matter of the imprisonment of Thomas Kaine.

July 9th, 1852. The following decision was this day rendered by Judge Betts, on the various points raised and discussed upon the return of the habeas corpus in this case:

1. Under the provisions of acts of Congress organizing the circuit courts and the expositions thereof by the Supreme Court, a district judge, in the absence of a circuit judge, can hold a circuit court, and exercise therein all the powers conferred by law upon the court, other than hearing cases on writ of error or appeal from a district court holden by himself.

2. It being term time of this court, when the writ of habeas corpus was allowed by the district judge, he could, at his discretion, order the writ returned in court or before himself at chambers.

3. Neither the treaty between the United States and Great Britain, concluded August 9th, 1842, nor the act of Congress passed August 12, 1848, any way impair the authority of the judges or courts of the United States to award a writ of habeas corpus in the case of a fugitive from justice, and determine whether he be rightfully imprisoned or detained as such by any judge or magistrate.

4. The proceedings in the courts of the United States, on writs of habeas corpus, are in conformity with the rules of the common law, and are not governed by the legislation of the several States.

5. The prisoner has no right to traverse the return of the marshal, or demand an issue on the legality of his commitment. The papers offered to the court for those purposes cannot, therefore, be received as a pleading in the case.

6. The writ of habeas corpus being authorized by act of Congress "for the purpose of an inquiry into the cause of commitment," the prisoner may show on its return, from the face of the return, or aliunde, that the officer, issuing the warrant of arrest or commitment, had no competent authority so to do, or that the subject matter was not legally brought within his jurisdiction.

7. The provisions of the treaty in respect to fugitives from justice are of themselves a law which the judges and magistrates of the United States may execute without other authorization.

8. The commissioner who issued the warrant of arrest and commitment was, at the time, by virtue of his appointment and the acts of Congress in force, a magistrate within the meaning of the treaty.

9. The judges or magistrates act under the treaty upon complaint on oath, and the treaty does not require any requisition upon them by a minister or officer of the British Government, in order to give them jurisdiction of the subject. The requisition is to be by one government

on the other for the extradition of the criminal after his commitment by a judicial officer.

10. The act of Congress of August 12, 1848, is auxiliary to the treaty. It no way curtails or limits the operation and effect of the treaty, nor are any of its enactments repugnant to the treaty stipulations; and accordingly, if under our jurisprudence there be a supremacy of the treaty law over a legislative act, there is no occasion for the application of such principle in this case. The objection to the operation of the act concurrently with the treaty, has, therefore, no legal foundation.

11. The act of Congress is valid and must be carried into effect by the Judiciary, although it directs the surrender of fugitives from justice in cases out of the scope of the treaty compact. It rests in the discretion of Congress to order the extradition of criminals found within our dominions irrespective of any reciprocal obligations on the part of the government from whose jurisdiction they escape.

12. The commissioner was authorized, by virtue of his appointment by this court, in October term, 1850, to take cognizance of this case, under the provisions of the act of August 12, 1848.

13. The return of the marshal, connected with the documents annexed, shows upon its face that the subject-matter was brought before the commissioner by a complaint on oath and legal proof that the prisoner was a fugitive from justice from Great Britain.

14. The evidence that an assault was made at the time and place charged, with intent to commit murder, was admissible and relevant to that point; and the copy of the deposition made in Great Britain, upon which the original warrant was there granted against the prisoner, was duly authenticated, and was admissible evidence before the commissioner of the criminality of the prisoner; and the evidence taken and received by the commissioner, to prove the authority of the magistrate in Great Britain to grant such original warrant, was legally admissible, and competent to that end.

15. The commissioner having competent authority to take cognizance of the complaint, and to issue his warrant thereupon, and there being legal evidence before him in support of the complaint and of the criminality of the prisoner, in the matter charged against him, it does not belong to this court, on habeas corpus, to review the correctness of the decision of the commissioner upon the admissibility or effect of the evidence before him, nor to inquire whether the prisoner be innocent or guilty of the crime charged against him.

The court accordingly adjudges, that the commitment and imprisonment of the prisoner, for the return to the habeas corpus in the case set forth, are sufficient cause and warrant in law for his detention by the marshal.

Therefore, it is ordered by the court, that the writ of habeas corpus allowed in this case be dismissed, and that the prisoner be remanded and continued in the custody of the marshal under such his arrest and commitment by the aforesaid process.

A copy. J. W. NELSON, *Clerk*.

DEPARTMENT OF STATE, *Washington, July* 17, 1852.

To all whom these presents shall come, greeting:

Whereas, John F. Crampton, envoy extraordinary and minister plenipotentiary of her Majesty the Queen of Great Britain and Ireland, hath made requisition, in conformity with the 10th article of the treaty between the United States and Great Britain, for the mutual surrender of fugitive criminals, concluded at Washington, the 9th day of August, 1842, for the delivery up to justice of Thomas Kaine, charged with the crime of assault with intent to commit murder, in the county of Westmeath, Ireland.

And whereas the said Thomas Kaine hath been found in the State of New York, within the jurisdiction of the United States; and has, by proper affidavit, and in due form, been brought before Joseph Bridgham, a commissioner duly appointed by the United States circuit court for the southern district of New York, in the second circuit, for examination of said charge of assault with intent to commit murder. And whereas the said commissioner hath deemed the evidence sufficient to authorize the commitment of said Thomas Kaine; and has, accordingly, committed him. All of which appears by a copy of the proceedings transmitted to this Department.

Now these presents are to require of the United States marshal for the southern district of New York, or of any other public officer or person having charge or custody of said Thomas Kaine, to surrender and deliver him up to Anthony Barclay, her Britannic Majesty's consul, at the port of New York, or to any other person or persons duly authorized to receive said fugitive and conduct him to Great Britain for trial.

In testimony whereof I have hereunto signed my name, and caused the seal of this Department to be affixed, at Washington, this [SEAL.] 17th day of July, A. D. 1852, and of the independence of the United States the seventy-seventh.

(Signed) W. HUNTER, *Acting Secretary of State.*

Habeas corpus to bring up person.

The people of the State of New York, to the marshal of the United States for the southern district of New York, or other person, having the charge or custody of Thomas Kaine, greeting:

We command you, that you have the body of said Kaine, by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name he shall be called or charged, before one of the justices of the superior court of the city of New York, at the City Hall, in said city, on the 21st day of July, 1852, at 10 a. m., to do and receive what shall then and there be considered concerning him, and have you then there this writ.

Witness Henry P. Edwards, one of our justices of our superior court, the 20th day of July, one thousand eight hundred and fifty-two.

RICH'D BUSTEED, *Attorney.* RIBLETT, *Clerk.*

(*Endorsed.*)

Allowed, July 20th, 1852. J. S. BOSWORTH.

In the matter of Thomas Kaine.

I certify, that I hold and detain Thomas Kaine, the person in the annexed writ named, in my custody, under and by virtue of a warrant of Joseph Bridgham, United States commissioner for the southern district of New York, dated the 15th day of May, 1852, and the commitment of said commissioner, dated the 29th day of June, 1852, and also under and by virtue of an order of Samuel R. Betts, esq., made in the circuit court of the United States for the southern district of New York, dated the 9th day of July, 1852, who granted a writ of habeas corpus, and after a full hearing of the counsel, dismissed said writ, and remanded him to the custody of the United States marshal for the southern district of New York, to await the action of the State Department.

And I also certify, that I hold and detain said Thomas Kaine in my custody, under and by virtue of a warrant from the State Department, dated the 17th day of July, 1852. Copies of which several warrants, commitment, habeas corpus, and order, are hereto annexed, and the originals I produce.

Dated July 21, 1852.

H. F. TALLMADGE,
United States marshal for the southern district of New York.

(See copies of warrants, &c., *ante*.)

Extract from Ashburton treaty.

Article X of a treaty to settle and define the boundaries between the territories of the United States and the possessions of her Britannic Majesty in North America; for the final suppression of the slave trade; and for the giving up of criminals, fugitives from justice, in certain cases. Aug. 9, 1842. Ratified August 22, 1842.

"ARTICLE X.

"It is agreed that the United States and her Britannic Majesty shall, upon mutual requisitions by them, or their ministers, officers or authorities, respectively made, deliver up to justice all persons who, being charged with the crime of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged paper, committed within the jurisdiction of either, shall seek an asylum or shall be found within the territories of the other: provided that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offence had there been committed. And the respective judges and other magistrates of the two governments shall have power, jurisdiction, and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, that he may be brought before such judges or other magistrates respectively, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence

be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of such fugitive.

The expense of such apprehension and delivery shall be borne and defrayed by the party who makes the requisition and receives the fugitive."

Act giving effect to certain treaty stipulations.

CHAP. CLXVII.—An act for giving effect to certain treaty stipulations between this and foreign governments, for the apprehension and delivering up of certain offenders.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress, That in all cases in which there now exists, or hereafter may exist, any treaty or convention for extradition between the Government of the United States and any foreign government, it shall and may be lawful for any of the justices of the Supreme Court or judges of the several district courts of the United States—and the judges of the several State courts, and the commissioners authorized so to do by any of the courts of the United States, are hereby severally vested with power, jurisdiction, and authority, upon complaint made under oath or affirmation, charging any person, found within the limits of any State, district, or territory, with having committed within the jurisdiction of any such foreign government any of the crimes enumerated or provided for by any such treaty or convention—to issue his warrant for the apprehension of the person so charged, that he may be brought before such judge or commissioner, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient by him to sustain the charge under the provisions of the proper treaty or convention, it shall be his duty to certify the same, together with a copy of all the testimony taken before him, to the Secretary of State, that a warrant may issue on the requisition of the proper authorities of such foreign government, for the surrender of such person, according to the stipulations of said treaty or convention; and it shall be the duty of said judge or commissioner to issue his warrant for the commitment of the person so charged to the proper gaol, there to remain until such surrender shall be made.

Sec. 2. And be it further enacted, That in every case of complaint as aforesaid, and of a hearing upon the return of the warrant of arrest, copies of the depositions upon which an original warrant in any such foreign country may have been granted, certified under the hand of the person or persons issuing such warrant, and attested upon the oath of the party producing them to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended.

Sec. 3. And be it furt' [illegible]l, That it shall be lawful for the

Secretary of State, under his hand and seal of office, to order the person so committed to be delivered to such person or persons as shall be authorized, in the name and on behalf of such foreign government, to be tried for the crime of which such person shall be so accused, and such person shall be delivered up accordingly; and it shall be lawful for the persons authorized, as aforesaid, to hold such person in custody, and to take him or her to the territories of such foreign government, pursuant to such treaty; and if the person so accused shall escape out of any custody to which he or she shall be committed, or to which he or she shall be delivered, as aforesaid, it shall be lawful to retake such person in the same manner as any person accused of any crime against the laws in force in that part of the United States to which he or she shall so escape may be retaken, on an escape.

Sec. 4. And be it further enacted, That when any person, who shall have been committed under this act, or any such treaty as aforesaid, to remain until delivered up in pursuance of a requisition, as aforesaid, shall not be delivered up pursuant thereto, and conveyed out of the United States within two calendar months after such commitment, over and above the time actually required to convey the prisoner from the gaol to which he or she may have been committed, by the readiest way, out of the United States, it shall in every such case be lawful for any judge of the United States, or of any State, upon application made to him by, or on behalf of, the person so committed, and upon proof made to him that reasonable notice of the intention to make such application has been given to the Secretary of State, to order the person so committed to be discharged out of custody, unless sufficient cause shall be shown to such judge why such discharge ought not to be ordered

Sec. 5. And be it further enacted, That this act shall continue in force during the existence of any treaty of extradition with any foreign government, and no longer.

Sec. 6. And be it further enacted, That it shall be lawful for the courts of the United States, or any of them, to authorize any person or persons to act as a commissioner or commissioners under the provisions of this act; and the doings of such person or persons so authorized, in pursuance of any of the provisions aforesaid, shall be good and available to all intents and purposes whatever.

Approved, August 12, 1848."

ARTICLE XXVII.

Of treaty of amity, commerce and navigation, between his Britannic Majesty and the United States of America, by their President, with the advice and consent of their Senate.

November 19, 1794.

ARTICLE XXVII.

"It is further agreed, that his Majesty and the United States, on mutual requisitions by them respectively, or by their respective ministers

or officers authorized to make the same, will deliver up to justice all persons who, being charged with murder or forgery, committed within the jurisdiction of either, shall seek an asylum within any of the countries of the other; provided that this shall only be done on such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the offence had there been committed. The expense of such apprehension and delivery shall be borne and defrayed by those who make the requisition and receive the fugitive."

BRITISH STATUTES

Giving effect to the Treaty for the apprehension of certain Criminal Fugitives.

6 & 7 VICTORIA, CAP. 76.

An act for giving effect to a Treaty between her Majesty and the United States of America, for the apprehension of certain offenders. (*22d August*, 1843.)

Whereas, by the tenth article of a Treaty between her Majesty and the United States of America, signed at Washington on the ninth day of August, in the year one thousand eight hundred and forty-two, the ratifications whereof were exchanged at London on the thirteenth day of October in the same year, it was agreed, &c., &c.

Be it enacted by the Queen's most excellent majesty, by and with the advice and consent of the Lords, spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same: That in case requisition shall at any time be made by the authority of the said United States, in pursuance of and according to the said treaty, for the delivery of any person charged with the crime of murder, or assault with intent to commit murder, or with the crime of piracy, or arson, or robbery, or forgery, or the utterance of forged paper, committed within the jurisdiction of the United States of America, who shall be found within the territories of her Majesty, it shall be lawful for one of her Majesty's principal secretaries of state, or in Ireland for the chief secretary of the lord lieutenant of Ireland, and in any of her Majesty's colonies or possessions abroad, for the officer administering the government of any such colony or possession, by warrant under his hand and seal, to signify that such requisition has been so made, and to require all justices of the peace and other magistrates and officers of justice within their several jurisdictions to govern themselves accordingly, and to aid in apprehending the person so accused, and committing such person to gaol, for the purpose of being delivered up to justice, according to the provisions of the said treaty; and thereupon it shall be lawful for any justice of the peace, or other person having power to commit for trial persons accused of crimes against the

laws of that part of her Majesty's dominions in which such supposed offender shall be found, to examine upon oath any person or persons touching the truth of such charge; and upon such evidence, as according to the laws of that part of her Majesty's dominions, would justify the apprehension and committal for trial of the person so accused if the crime of which he or she shall be so accused had been there committed, it shall be lawful for such justice of the peace, or other person having power to commit as aforesaid, to issue his warrant for the apprehension of such person, and also to commit the person so accused to gaol, there to remain until delivered pursuant to such requisition as aforesaid.

2. Provided, always, and be it enacted: That in every such case copies of the depositions upon which the original warrant was granted, certified under the hand of the person or persons issuing such warrant, and attested upon the oath of the party producing them to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended.

3. And be it enacted, That upon the certificate of such justice of the peace, or other person, having power to commit as aforesaid, that such supposed offender has been so committed to gaol, it shall be lawful for one of her Majesty's principal secretaries of state, or in Ireland for the chief secretary of the lord lieutenant of Ireland, and in any of her Majesty's colonies or possessions abroad, for the officer administering the government of any such colony or possession, by warrant under his hand and seal, to order the person so committed to be delivered to such person or persons as shall be authorized in the name of the said United States to receive the person so committed, and to convey such person to the territories of the said United States, to be tried for the crime of which such person shall be so accused; and such person shall be delivered up accordingly; and it shall be lawful for the person or persons authorized as aforesaid to hold such person in custody, and take him or her to the territories of the said United States, pursuant to the said treaty; and if the person so accused shall escape out of any custody to which he or she shall be committed, or to which he or she shall be delivered, as aforesaid, it shall be lawful to retake such person in the same manner as any person accused of any crime against the laws of that part of her Majesty's dominions to which he or she shall so escape, may be retaken upon an escape.

4. And be it enacted, That where any person, who shall have been committed under this act, to remain until delivered up pursuant thereto, and conveyed out of her Majesty's dominions within two calendar months after such committal, over and above the time actually required to convey the prisoner from the gaol to which he or she was committed, by the readiest way, out of her Majesty's dominions, it shall in every such case be lawful for any of her Majesty's judges in that part of her Majesty's dominions in which such supposed offender shall be in custody, upon application made to him or them by or on behalf of the person so committed, and upon proof made to him or them that reasonable notice of the intention to make such application has been given to some or

one of her Majesty's principal secretaries of state, or in Ireland to the chief secretary of the lord lieutenant of Ireland, and in any of her Majesty's colonies or possessions abroad, for the officer administering the government of any such colony or possession, to order the person so committed to be discharged out of custody, unless sufficient cause shall be shown to such judge or judges why such discharge ought not to be ordered.

5. And be it enacted, That if, by any law or ordinance to be hereafter made by the local legislature of any British colony or possession abroad, provision shall be made for carrying into complete effect within such colony or possession the objects of this present act, by the substitution of some other enactment in lieu thereof, then it shall be competent to her Majesty, with the advice of her privy council, (if to her Majesty in council it shall seem meet, but not otherwise,) to suspend the operation within any such colony or possession of this present act, so long as such substituted enactment shall continue in force there, and no longer.

6. And be it enacted, That this act shall continue in force during the continuance of the tenth article of the said treaty.

8 & 9 *Victoria, cap.* 120.

An act for facilitating execution of the treaties with France and the United States of America, for the apprehension of certain offenders.

8th August, 1845.

Whereas two acts were passed in the seventh year of the reign of her Majesty, severally intituled "An act for giving effect to a convention between her Majesty and the King of the French, for the apprehension of certain offenders," and "An act for giving effect to a treaty between her Majesty and the United States of America, for the appresion of certain offenders;" and it is expedient to make provision for giving more immediate effect to the warrant of any one of her Majesty's principal secretaries of state, for the better execution of the said convention and treaty respectively:

Be it enacted by the Queen's most excellent majesty, by and with the advice and consent of the Lords, spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That any police magistrate of the metropolis, to whom any one of her Majesty's principal secretaries of state shall have signified, by warrant under his hand and seal, that requisition has been made, pursuant to the said convention or treaty respectively, to deliver up to justice, in terms of the said convention or treaty, as the case may be, any person accused of any crime rendering him liable to be so delivered up under either of the recited acts, shall, upon such evidence as, according to the laws of England, would justify the apprehension of the person so accused, if the crime of which he is accused had been committed in England, within the jurisdiction of such magistrate, issue his warrant for the apprehension of such person in the form annexed to this act, or to the like effect; and such warrant may be executed in

any part of England, and shall have the same force and effect throughout England as if the same had been originally issued or subsequently endorsed by a justice of the peace or magistrate having jurisdiction in the place where the same shall be executed, and may be lawfully executed any where within England, by the constable or constables to whom the same shall be directed, or who shall be appointed to execute the same, who shall severally have all the powers and privileges for the execution of such warrant as any constable duly appointed hath, or may have, within his constablewick.

2. And be it enacted, That every person who shall be apprehended under any such warrant, shall be brought with all convenient speed before the magistrate by whom such warrant shall have been issued, or some other magistrate of the same police court, and that such magistrate may cause the warrant of committal of such person to be drawn up according to the form given in the schedule annexed to this act, or to the like effect, which shall be good and sufficient in law to warrant the persons to whom the same shall be directed to detain such person in custody, as directed in the said warrant, until delivered pursuant to the act under which he shall have been apprehended.

3. And be it enacted, That this act shall be construed with each of the said acts separately, and as if the said act had been enacted in each of the said acts.

4. And be it enacted, That this act may be amended or repealed by any act to be passed in this session of Parliament.

Schedule to which this act refers.

Warrant of apprehension.

METROPOLITAN POLICE DISTRICT, *to wit:*

To all and each of the constables of the Metropolitan Police force:

Whereas, the right honorable ——— one of her Majesty's principal secretaries of state, by warrant under his hand and seal, hath signified to me that, pursuant to the [convention made between her Majesty and the King of the French, in the year one thousand eight hundred and forty-three, or the treaty made between her Majesty and the United States of America, in the year one thousand eight hundred and forty-two, as the case may be,] for the apprehension of certain offenders, requisition hath been duly made to him for delivering up to justice A. B., late of ——, who is charged with having committed the crime of [here specify the offence] within the jurisdiction of [his Majesty the King of the French, or the United States of America, as the case may be.]

This is therefore to command you, in her Majesty's name, forthwith to apprehend the said A. B., pursuant to an act passed in the ninth year of the reign of her Majesty, entitled [here insert the title of this act,] wherever he may be found in England, and bring him before me, or some other magistrate sitting in this court, to answer unto the said charge, for which this shall be your warrant.

Given under my hand and seal, at ——, one of the police courts of the metropolis, this —— day of —— in the year of our Lord ———

J. P. [L. S.]

[Warrant.]

Warrant of Committal.

METROPOLITAN POLICE DISTRICT, *to wit:*

To A. B., one of the constables of the Metropolitan police force, and to the keeper of the —— at ——:

Be it remembered, that on the ——— day of ———, in the year of our Lord ——— A. B., late of ———, is brought before me, J. P., one of the police magistrates of the Metropolis, sitting at the police court in ——— within the Metropolitan police district, and is charged before me, for that he, the said A. B., on the —— day of ———, at ———, within the jurisdiction of [his Majesty the King of the French, or the United States of America, as the case may be,] did [here state the offence;] and forasmuch as it hath been shown to me, upon such evidence as by law is sufficient to justify the committal to gaol of the said A. B., pursuant to an act passed in the seventh year of the reign of Queen Victoria, intituled [here insert the title of the sixth and seventh Victoria, chapter seventy-five, or six and seventh Victoria, chapter seventy-six, as the case may require,] that the said A. B. is guilty of the said offence.

This is, therefore, to command you, the said constable, in her Majesty name, forthwith to convey and deliver the body of the said A. B. into the custody of the said keeper of the —— at ———, and you, the said keeper, to receive the said A. B. into your custody in the same —— and him there safely to keep until he shall be thence delivered pursuant to the provisions of the said act, for which this shall be your warrant.

Given under my hand and seal at ———, one of the police courts of the Metropolis, this —— day of ———, in the year of our Lord ———.

J. P. [L. S.]

To the honorable the Justices of the Supreme Court of the United States

The petition of Thomas Kaine respectfully showeth:

That he is restrained from his liberty by, and is now a prisoner in jail, under the custody of the United States marshal for the southern district of New York, and that he is detained and confined therein, under and by virtue of an order made by the honorable Samuel R. Betts, at a term of the circuit court of the United States, dated the 9th day of July, 1852, (and of which order a copy is hereto annexed,) against your petitioner, as an alleged fugitive from justice, under the provisions of the treaty made between the United States and her Bri-

tannic Majesty's Government, on the ninth day of August, 1842. That since said order was made the acting Secretary of State has signed and delivered a warrant for the surrender of your petitioner to the British authorities. And your petitioner further shows, that he is advised by his counsel, and verily believes, that his imprisonment is illegal, and in violation of the rights of your petitioner.

Wherefore your petitioner prays that a writ of habeas corpus may issue from this honorable court, to be directed to the marshal of the southern district of the State of New York, or to such other persons as may hold or detain your petitioner, under and by virtue of said order, commanding him or them to have the body of your petitioner before this honorable court, at such time as in said writ may be specified, for the purpose of inquiring into the cause of the commitment of your petitioner, and to do and abide such order as this honorable court may make in the premises.

And your petitioner, &c.

THOMAS KAIN.

Sworn before me, this 22d day of July, 1852.

JOHN W. NELSON, *U. S. Comm'r.*

RICHARD BUSTEED,
Attorney for Petitioner.

SUPREME COURT OF THE UNITED STATES.

December Term, 1852.

Ex parte. In the matter of Thomas Kane, an alleged fugitive from justice from Great Britain.

On consideration of the petition filed in this cause yesterday, and of the arguments of counsel thereupon had, as well in support of the application as against it, it is now here ordered by the court, that counsel have leave to argue the following questions, to wit:

1. Has this court jurisdiction upon the case as certified by Judge Nelson?

2. Can a certiorari issue to bring up the proceedings in the circuit court?

3. Assuming the court to have jurisdiction, and the proceedings in the circuit court to be legally before this court, is the party entitled to be discharged?

And it is further ordered by the court, that the same be, and hereby are, set down for argument on the first Monday of January next.

Attest, WM. THOS. CARROLL, *C. S. C. U. S.*

DECEMBER 9, 1852.